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CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT ("**Agreement**") is entered into this _____ day of October 2024, by and between the CITY OF ALAMEDA, a municipal corporation ("**the City**"), and **POWER ENGINEERING CONSTRUCTION**, a California corporation whose address is **1501 VIKING STREET, SUITE 200, ALAMEDA, CA 94501**, **(**"**Contractor**"), in reference to the following:

RECITALS:

A. The City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the City's Charter.

B. The City is in need of the following services: Dredging/Sediment removal from the corners of the Alameda South Shore Lagoon 5 and maintenance of the outfall structure, in Alameda California. City staff issued an IFB on July 29, 2024, after a submittal period of 22 days received one timely submitted bid, and the bid was opened on August 20, 2024. Staff reviewed the bid and selected the lowest responsive and responsible bidder.

C. Contractor possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

D. Whereas, the City Council authorized the City Manager to execute this agreement on October 1, 2024.

E. The City and Contractor desire to enter into an agreement for the Lagoon 5 Dredging Project and Lagoon System Outfall Maintenance Project, upon the terms and conditions herein.

NOW, THEREFORE, in consideration of the forgoing, which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. TERM:

Contractor shall have 45 consecutive working days from the date the work is to commence pursuant to the Notice to Proceed to diligently prosecute the work to completion. This term is extended by said number of consecutive working days pursuant a Change Order granting any extension per Project No. 07-24-21 Specifications General Requirements Section 5-7.2.

2. SERVICES TO BE PERFORMED:

Contractor agrees, at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all work strictly in accordance with the Specifications, Special Provisions and Plans, which Specifications, Special Provisions and Plans are hereby referred to and expressly made a part hereof with the same force and effect as if the same were fully incorporated herein. Contractor acknowledges that the work plan included in

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Exhibit A is tentative and does not commit the City to request Contractor to perform all tasks included therein.

3. COMPENSATION TO CONTRACTOR:

Contractor shall be compensated for services performed pursuant to this Agreement in the amount and manner set forth in Contractor's bid, which is attached hereto as Exhibit A and incorporated herein by this reference. Payment will be made in the same manner that claims of a like character are paid by the City, with checks drawn on the treasury of the City.

Payment will be made by the City in the following manner: On the first day of each month, Contractor shall submit a written estimate of the total amount of work done the previous month. However, the City reserves the right to adjust budget within and between tasks. Pricing and accounting of charges are to be according to the bid packet pricing, unless mutually agreed to in writing.

Payment shall be made for 95% of the value of the work completed as determined by the City. The City shall retain 5% of the value of the work as partial security for the completion of the work by Contractor. Retained amounts shall be paid to Contractor within sixty days of acceptance by the City of the project. Payment shall not be construed as acceptance of defective work. No interest will be paid to Contractor on retained funds.

Total compensation for work is $788,830, with a ten percent contingency in the amount of $78,883 for a total not to exceed of $867,713. Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City.

Prompt Payment Of Withheld Funds To Subcontractors: The City shall hold retainage from the prime contractor and shall, as determined by the City, make prompt and regular incremental acceptances of portions of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted by the City, including incremental acceptances of portions of the contract work. Any delay or postponement of payment may take place only for good cause and with the City's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving (a) late payment or nonpayment by the prime contractor, (b) deficient subcontractor performance, or (c) noncompliance by a subcontractor with the contract, including but not limited to remedies under California Public Contract Code Section 9204. This clause applies to both DBE and non-DBE subcontractors.

4. TIME IS OF THE ESSENCE:

Contractor and the City agree that time is of the essence regarding the performance of this Agreement.

It is agreed by the parties to this Agreement that if all the work called for under the Agreement is not completed before or upon the expiration of the time limit as set forth in Paragraph

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1 above, damage will be sustained by the City, and it is and will be impracticable to determine the actual damage which the City will sustain in the event of and by reason of such delay. It is therefore agreed that Contractor will pay the City the sum of three thousand and six hundred DOLLARS ($3,600) per day as liquidated damages for each and every day's delay beyond the time prescribed to complete the work; and Contractor agrees to pay such liquidated damages as herein provided, and in case the same are not paid, agrees that the City may deduct the amount thereof from any money due or that may become due Contractor under the Agreement.

It is further agreed that in case the work called for under the Agreement is not finished and completed in all parts and requirements within the time specified, the City shall have the right to extend the time for completion or not, as may seem best to serve the interest of the City; and if the City decides to extend the time limit for the completion of the Agreement, it shall further have the right to charge Contractor, its successors, heirs, assigns or sureties, and to deduct from the final payment for the work, all or any part, as it may deem proper, of the actual costs and overhead expenses which are directly chargeable to the Agreement, and which accrue during the period of such extensions.

Contractor shall not be assessed with liquidated damages during any delay in the completion of the work caused by an act of God or of the public enemy, acts of the City, fire, flood, epidemic, quarantine restriction, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes; provided that Contractor shall, within one (1) day from the beginning of such delay, notify the City in writing of the causes of delay. The City shall ascertain the facts in good faith and the extent of the delay, and its findings of the facts thereon shall be final and conclusive.

5. STANDARD OF CARE:

Contractor agrees to perform all services and work hereunder in a manner commensurate with the prevailing standards of like professionals in the San Francisco Bay Area and agrees that all services and work shall be performed by qualified and experienced personnel who are not employed by the City nor have any contractual relationship with the City.

6. INDEPENDENT PARTIES:

Contractor hereby declares that it is engaged as an independent business and it agrees to perform its services as an independent contractor. The manner and means of conducting the work are under the control of Contractor, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Contractor's services and work. None of the benefits provided by the City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave are available from the City to Contractor, its employees, subcontractors, suppliers or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Contractor. Payments of the above items, if required, are the responsibility of Contractor.

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7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):

Contractor assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Contractor shall indemnify, defend (with counsel acceptable to the City) and hold the City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Contractor.

8. NON-DISCRIMINATION:

Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable employer/employee conduct, neither Contractor nor Contractor's employees, agents, subcontractors or suppliers shall harass or discriminate against any job applicant, City employee, or any person on the basis of any kind of any statutorily (federal, state or local) protected class, including but not limited to race, religious creed, color, national origin, ancestry, disability (both mental and physical), including HIV and AIDS, medical condition (e.g.. cancer), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, pregnancy, political affiliation, military and veteran status or legitimate union activities. Contractor agrees that any violations of this provision shall constitute a material breach of this Agreement.

9. HOLD HARMLESS:

1. To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel acceptable to the City) and hold harmless the City, its City Council, boards, commissions, officials, employees, agents and volunteers ("Indemnitees") from and against any and all loss, damages, liability, obligations, claims, suits, judgments, costs and expenses whatsoever, including reasonable attorney's fees and costs of litigation ("Claims"), arising from or in any manner connected to Contractor's performance of its obligations under this Agreement or out of the operations conducted by Contractor even if the City is found to have been negligent. If the Claims filed against Indemnitees allege negligence, recklessness or willful misconduct on the part of Contractor, Contractor shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence, recklessness or willful misconduct is not found on the part of Contractor. Contractor shall not have any obligations to indemnify Indemnitees if the loss or damage is found to have resulted solely from the negligence or the willful misconduct of the City. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

2. As to Claims for professional liability only, Contractor's obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8.

Contractor's obligation to indemnify, defend and hold harmless Indemnities shall expressly survive the expiration or early termination of this Agreement.

10. INSURANCE:

a. On or before the commencement of the terms of this Agreement, Contractor shall furnish City's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with

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paragraphs 10.b. (1) through (4). Such certificates, which do not limit Contractor's indemnification, shall also contain substantially the following statement:

> "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days advance written notice to the City of Alameda, Attention: Risk Manager."

Contractor shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company licensed to offer insurance business in the State of California with a current A.M. Best's rating of no less than A:VII or Standard & Poor's Rating (if rated) of at least BBB unless otherwise acceptable to the City. Endorsements naming the City, its City Council, boards, commissions, officials, employees, agents and volunteers as additional insured shall be submitted with the insurance certificates.

b. COVERAGE:

Contractor shall maintain insurance coverage and limits at least as broad as:

(1) Workers' Compensation:

Statutory coverage as required by the State of California.

(2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury:	$1,000,000 each occurrence
	$2,000,000 aggregate - all other
Property Damage:	$1,000,000 each occurrence
	$2,000,000 aggregate

If submitted, combined single limit policy with per occurrence limits in the amounts of $2,000,000 and aggregate limits in the amounts of $4,000,000 will be considered equivalent to the required minimum limits shown above. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

(3) Automotive:

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury:	$1,000,000 each occurrence
Property Damage:	$1,000,000 each occurrence
or	
Combined Single Limit:	$2,000,000 each occurrence

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Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

(4) Pollution Prevention:

Legal liability required for hazardous materials excavation in the amount of $2,000,000 each occurrence. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

c. SUBROGATION WAIVER:

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

d. FAILURE TO SECURE:

If Contractor at any time during the term hereof should fail to secure or maintain the foregoing insurance, the City shall be permitted to obtain such insurance in Contractor's name or as an agent of Contractor and shall be compensated by Contractor for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

e. ADDITIONAL INSURED:

The City, its City Council, boards, commissions, officials, employees and volunteers shall be named as an additional insured under all insurance coverages, except worker's compensation insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy. The additional insured coverage under the Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance.

f. SUFFICIENCY OF INSURANCE:

Contractor shall furnish the following bonds from a bonding company acceptable to the City's Risk Manager. Faithful Performance Bond and Labor and Material Bond are only required for work over $25,000. Therefore, those estimates that are under $25,000 will not need to budget for the bond premiums and those estimates over $25,000 will need to be sure to budget for the bond premiums.

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The insurance limits required by the City are not represented as being sufficient to protect Contractor. Contractor is advised to consult Contractor's insurance broker to determine adequate coverage for Contractor.

g. EXCESS OR UMBRELLA LIABILITY:

If any Excess or Umbrella Liability policies are used to meet the limits of liability required by this Agreement, then said policies shall be true "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this Agreement, including but not limited to, the additional insured, SIR, and primary insurance requirements stated therein. No insurance policies maintained by the indemnified parties or Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until all the primary and excess liability policies carried by or available to the Provider are exhausted.

11. BONDS:

Contractor shall furnish the following bonds from a bonding company acceptable to the City's Risk Manager:

A. Faithful Performance: A bond in the amount of 100% of the total contract price plus 10% contingency guaranteeing the faithful performance of this contract, and

B. Labor and Materials: A bond for labor and materials in the amount of 100% of the total contract price plus 10% contingency.

12. PROHIBITION AGAINST TRANSFERS:

Contractor shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, Contractor's claims for money from the City under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to the City by Contractor.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Contractor, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Contractor is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Contractor, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the entity.

13. SUBCONTRACTOR APPROVAL:

Unless prior written consent from the City is obtained, only those people and subcontractors whose names are listed in Contractor's bid shall be used in the performance of this Agreement.

Requests for additional subcontracting shall be submitted in writing, describing the scope of work to be subcontracted and the name of the proposed subcontractor. Such request shall set

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forth the total price or hourly rates used in preparing estimated costs for the subcontractor's services. Approval of the subcontractor may, at the option of the City, be issued in the form of a Work Order.

In the event that Contractor employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general and automobile liability insurance in reasonable conformity to the insurance carried by Contractor. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

14. PERMITS AND LICENSES:

Contractor, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City Business License that may be required in connection with the performance of services and work hereunder.

15. REPORTS:

Each and every report, draft, work product, map, record and other document reproduced, prepared or caused to be prepared by Contractor pursuant to or in connection with this Agreement shall be the exclusive property of the City.

No report, information nor other data given to or prepared or assembled by Contractor pursuant to this Agreement shall be made available to any individual or organization by Contractor without prior approval by the City.

Contractor shall, at such time and in such form as the City may require, furnish reports concerning the status of services and work required under this Agreement.

16. RECORDS:

Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by the City that relate to the performance of services and work under this Agreement.

Contractor shall maintain adequate records of services and work provided in sufficient detail to permit an evaluation of services and work. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to such books and records to the representatives of the City or its designees at all proper times, and gives the City the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained for a period of three (3) years after receipt of final payment.

If supplemental examination or audit of the records is necessary due to concerns raised by the City's preliminary examination or audit of records, and the City’s supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or

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other breach of contract or failure to act in good faith, then Contractor shall reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

17. NOTICES:

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals from Contractor to the City shall be addressed to the City at:

City of Alameda
Public Works
950 West Mall Sq, Rm 110
Alameda, CA 94501
ATTENTION: Brendin Christolear, Supervising Civil Engineer
Ph: (510) 747-7929
Email: bchristolear@alamedaca.gov

All notices, demands, requests, or approvals from the City to Contractor shall be addressed to Contractor at:

Power Engineering Construction
1501 Viking Street, Suite 200
Alameda, CA 94501
ATTENTION: David Mik
Ph: (510) 337-3800 / Fax: (510) 337-3808
Email: mik@powerengconstruction.com

18. SAFETY:

Contractor will be solely and completely responsible for conditions of all vehicles owned or operated by Contractor, including the safety of all persons and property during performance of the services and work under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Contractor will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. Contractor's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

Contractor will immediately notify the City's Risk Manager within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. Contractor will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following

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information: (i) name and address of injured or deceased person(s); (ii) name and address of Contractor's employee(s) involved in the incident; (iii) name and address of Contractor's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

19. LAWS TO BE OBSERVED:

Contractor shall comply with all applicable laws, state, federal, and all ordinances, rules and regulations enacted or issued by the City. In addition, Contractor shall keep itself fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

20. HEALTH AND SAFETY REQUIREMENTS.

Provider acknowledges that the City shall have the right to impose, at the City's sole discretion, requirements that it deems are necessary to protect the health and safety of the City employees, residents, and visitors. Provider agrees to comply with all such requirements, including, but not limited to, mandatory vaccinations, the use of personal protective equipment (e.g. masks), physical distancing, and health screenings. Provider also agrees to make available to the City, at the City's request, records to demonstrate Provider's compliance with this Section.

21. DEPARTMENT OF INDUSTRIAL RELATIONS COMPLIANCE AND PREVAILING WAGE REQUIREMENTS ON PUBLIC WORKS PROJECTS:

Effective January 1, 2015, no Contractor or Subcontractor may be listed on a bid proposal for a public works project (submitted after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 (with the limited exceptions from this requirement for bid purposed only under Labor Code Section 1771.1(a)). Register at https://efiling.dir.ca.gov/PWCR

No Contractor or Subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The Prime Contractor is required to post job site notices prescribed by regulations. See 8 Calif. Code Regulation §16451(d).

Effective April 1, 2015, All Contractors and Subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner at: https://apps.dir.ca.gov/ecpr/das/altlogin

22. HOURS OF LABOR:

As provided in Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by Contractor or by any subcontractor on any subcontract under this

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Agreement, upon the work or upon any part of the work contemplated by this Agreement, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the provision hereinabove set forth, work performed by employees of Contractor in excess of eight (8) hours per day and forty (40) hours during any one week shall be permitted upon this public work, provided that the employees' compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1-1/2) times the basic rate of pay.

Contractor shall pay the City a penalty of Twenty-five Dollars ($25.00) for each worker employed in the execution of this Agreement by Contractor, or by any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one (1) calendar week, in violation of the provisions of Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, unless compensation for the workers so employed by Contractor is not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half (1½) times the above specified rate of *per diem* wages, unless otherwise specified. Holidays shall be defined in the Collective Bargaining Contract applicable to each particular craft, classification, or type of worker employed.

23. APPRENTICES:

Attention is directed to the provisions in Sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by Contractor or any subcontractor under it on contracts greater than $30,000 or 20 working days. Contractor and any subcontractor under it shall comply with the requirements of Sections 1777.5 and 1777.6 in the employment of apprentices.

Section 1777.5 of the Labor Code requires Contractor or subcontractor employing workers in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of the public works project, and which administers the apprenticeship program in that trade, for a certificate of approval, if they have not previously applied and are covered by the local apprenticeship standards.

Contractor is required to make contributions to funds established for the administration of apprenticeship programs if: (1) Contractor employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions; or (2) if Contractor is not a signatory to an apprenticeship fund and if the funds administrator is unable to accept Contractor' required contribution. Contractor or subcontractor shall pay a like amount to the California Apprenticeship Council.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

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24. LABOR DISCRIMINATION:

No discrimination shall be made in the employment of persons upon public works because of the race, color, sex, religion, age, national origin, sexual orientation or physical disability of such persons and every Contractor for public works violating this section is subject to all the penalties imposed for a violation of the provisions of the Labor Code, and, in particular, Section 1735.

25. REGISTRATION OF CONTRACTORS:

Before submitting bids, contractors shall be licensed in accordance with the provisions of Chapter 9, Division 3, of the Business and Professional Code of the State of California.

26. URBAN RUNOFF MANAGEMENT:

Contractor shall avoid creating excess dust when breaking asphalt or concrete and during excavation and grading. If water is used for dust control, contractor shall use as little as necessary. Contractor shall take all steps necessary to keep wash water out of the streets, gutters and storm drains.

Contractor shall develop and implement erosion and sediment control to prevent pollution of storm drains. Such control includes but is not limited to:

a. Use storm drain inlet protection devices such as sand bag barriers, filter fabric fences, block and gravel filters. (Block storm drain inlets prior to the start of the rainy season (October 15), on site de-watering activities and saw-cutting activities; shovel or vacuum saw-cut slurry and remove from the site).

b. Cover exposed piles of soil or construction material with plastic sheeting. All construction materials must be stored in containers.

c. Sweep and remove all materials from paved surfaces that drain to streets, gutters and storm drains prior to rain as well as at the end of the each work day. At the completion of the project, the street shall be washed and the wash water shall be collected and disposed of offsite in an appropriate location.

d. After breaking old pavement, Contractor shall remove all debris to avoid contact with rainfall or runoff.

e. Contractor shall maintain a clean work area by removing trash, litter, and debris at the end of each workday. Contractor shall also clean up any leaks, drips, and other spills as they occur.

The objective is to ensure that the City and County of Alameda County-Wide Clean Water Program is adequately enforced. These controls should be implemented prior to the start of construction, up-graded as required, maintained during construction phases to provide adequate protection, and removed at the end of construction.

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These recommendations are intended to be used in conjunction with the State's Best Management Practices Municipal and Construction Handbooks, local program guidance materials from municipalities, Section 7.1.01 of the Standard Specifications and any other appropriate documents on storm water quality controls for construction.

Failure to comply with this program will result in the issuance of noncompliance notices, citations, project stop orders or fines. The fine for noncompliance of the above program is two hundred and fifty dollars ($250.00) per occurrence per day. The State under the Federal Clean Water Act can also impose a fine on the contractor, pursuant to Cal. Water Code §13385.

27. COMPLIANCE WITH MARSH CRUST ORDINANCE:

Contractor shall perform all excavation work in compliance with the City's Marsh Crust Ordinance as set forth at Section 13-56 of the Municipal Code. Prior to performing any excavation work, Contractor shall verify with the Building Official whether the excavation work is subject to the Marsh Crust Ordinance. Contractor shall apply for and obtain permits from Building Services on projects deemed to be subject to the Marsh Crust Ordinance.

28. COMPLIANCE WITH THE CITY'S INTEGRATED PEST MANAGEMENT POLICY:

Contractor shall follow the requirements of the City's Integrated Pest Management (IPM) Policy to ensure the City is in compliance with its Municipal Regional Stormwater NPDES Permit, Order R2-2022-0018, issued by the San Francisco Bay Regional Water Quality Control Board.

- ❑ Contractor shall use the most current IPM technologies available to ensure the long-term prevention or suppression of pest problems and to minimize negative impacts on the environment, non-target organisms, and human health for the control or management of pests in and around City buildings and facilities, parks and golf courses, urban landscape areas, rights-of-way, and other City properties.

- ❑ Contractor will consider the City IPM Policy's hierarchy of options or alternatives listed below, in the following order before recommending the use of or applying any pesticide on City property: (1)

    a. No controls (e.g. tolerating the pest infestation, use of resistant plant varieties or allowing normal life cycle of weeds);

    b. Physical or mechanical controls (e.g. hand labor, mowing, exclusion);

    c. Cultural controls (e.g. mulching, disking, alternative vegetation) and good housekeeping (e.g. cleaning desk area);

    d. Biological controls (e.g., natural enemies or predators);

    e. Reduced-risk chemical controls (e.g., soaps or oils); and

    f. Other chemical controls.

- ❑ Prior to applying chemical controls Contractor shall complete a checklist for the City's pre-approval that explains why a chemical control is necessary. For annual contracts that require regular application of chemical controls the contractor shall submit one checklist

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prior to the initiation of the project demonstrating that the hierarchy has been reviewed and no other options exist. (See Exhibit C). Additionally, Contractor shall provide documentation to the City's project manager of the implementation of the IPM techniques hierarchy described in the City's IPM Policy.

- ❑ Contractor shall avoid the use of the following pesticides that threaten water quality, human health and the environment:

    a. Acute Toxicity Category I chemicals as identified by the Environmental Protection Agency (EPA);

    b. Organophosphate pesticides (e.g., those containing Diazinon, chlorpyrifos or malathion);

    c. Diamides (chlorantraniliprole and cyantraniliprole);

    d. Neonicotinoids (e.g., imidacloprid, acetamiprid, and dinotefuran);

    e. Pyrethroids (bifenthrin, cyfluthrin, beta-cyfluthrin, cypermethrin, deltamethrin, esfenvalerate, lambda-cyhalothrin, metofluthrin, permethrin, and tralomethrin), carbamates (e.g., carbaryl and aldicarb), diuron, fipronil and its degradates, and indoxacarb; and

    f. Copper-based pesticides unless their use is judicious, other approaches and techniques have been considered, and the threat of impact to water quality is prevented.

- ❑ Contractor shall sign the Contractor Verification Form (attached as Exhibit B) indicating the intent to implement the City's IPM Policy, and return a signed copy to the City's project manager.

- ❑ Contractor shall provide to the City's project manager an annual report of all pesticide usage in support of City operations including pesticide name, active ingredient(s), target pest(s), the total amounts used and the reasons for any increase in use of any pesticide.

- ❑ Contractor shall provide a copy of any current IPM certifications(s) to the City's project manager prior to initiation of the service work.

A copy of the City's IPM Policy may be obtained from the City's project manager and is also on file with the City Clerk.

If this Agreement pertains to the use of any items listed above, Contractor will need to fill out and send in the Contractor Verification Form and Contractor Check List. ADD EXHIBIT B IF PEST CONTROL.

29. PURCHASES OF MINED MATERIALS REQUIREMENT:

Contractor shall ensure that all purchases of mined materials such as construction aggregate, sand and gravel, crushed stone, road base, fill materials, and any other mineral materials must originate from a surface mining operation identified on the AB3098 List per the Surface Mining and Reclamation Act of 1975 (SMARA).

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Within five days of award of contract, Contractor shall submit a report to the City which lists the intended suppliers for the above materials and demonstrates that the suppliers are in compliance with the SMARA requirements. The AB3098 List is maintained by the Department of Conservation's Office of Mine Reclamation (OMR) and can be viewed at: www.conservation.ca.gov/OMR/ab_3098_list/index.htm. Note that the list changes periodically and should be reviewed accordingly.

30. TERMINATION:

In the event Contractor fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Contractor shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) business days after receipt by Contractor from the City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, the City may terminate the Agreement forthwith by giving to Contractor written notice thereof.

The City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Contractor as provided herein. Upon termination of this Agreement, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination.

31. ATTORNEYS' FEES AND COSTS:

In the event of any litigation, including administrative proceedings, relating to this Agreement, including but not limited to any action or suit by any party, assignee or beneficiary against any other party, beneficiary or assignee, to enforce, interpret or seek relief from any provision or obligation arising out of this Agreement, the parties and litigants shall bear their own attorney's fees and costs. No party or litigant shall be entitled to recover any attorneys' fees or costs from any other party or litigant, regardless of which party or litigant might prevail.

32. PCC SECTION 9204 SUMMARY - CLAIMS SUBMITTED BETWEEN 01-01-2017 AND 01-01-2027:

Notwithstanding anything else to the contrary stated in the Information For Bidders (IFB) or the Contract Documents, all claims, regardless of dollar amount, submitted between January 1, 2017 and January 1, 2027 shall be governed by PCC Section 9204 and this section.

The following provisions and procedures shall apply:

A. For the purposes of this section, the term "Claim", "Contractor", "mediation", "Public Entity" "Public works project" and "Subcontractor" shall have the meaning provided for in PCC Section 9204.

B. Contractor shall submit each Claim (whether for a time extension, payment for money or damages) in writing and in compliance with PCC Section 9204. Contractor must include reasonable documentation to support each claim.

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C. Upon receipt of a Claim, the City shall conduct a reasonable review and respond in writing within 45 days of receipt and shall identify in a written statement what portions of the claim are disputed and undisputed. Undisputed portions of the Claim shall be process and paid within 60 days of the written statement. Undisputed amounts not paid in a timely manner shall bear interest at 7% per annum. The City and Contractor may mutually agree to extend the 45 day response time.

D. If the City needs approval from the City Council to provide a written statement, the 45 days may be extended to 3 days following the next duly noticed public meeting pursuant to PCC Section 9204(d)(1)(C).

E. If the City fails to timely respond to a Claim or if Contractor disputes the City's response, Contractor may submit a written demand for an informal meet and confer conference with the City to settle the issues in dispute. The demand must be sent via registered or certified mail, return receipt requested. Upon receipt, the City shall schedule the conference within 30 days.

F. Within 10 business days following the informal meet and confer conference, the City shall submit to Contractor a written statement describing any issues remaining in dispute and that portion which is undisputed. Undisputed portions of the Claim shall be process and paid within 60 days of the written statement. Undisputed amounts not paid in a timely manner shall bear interest at 7% per annum. The issues remaining in dispute shall be submitted to non-binding mediation. If the City and Contractor mutually agree on a mediator, each party shall pay equal portions of all associated costs. If within 10 business days, the City and Contractor cannot agree on a mediator, each party shall select a mediator (paying all costs associated with their selected mediator), and those mediators shall select a qualified neutral third party to mediate the disputed issues. The City and Contractor shall pay equal portions of all associated costs of such third party mediator.

G. Unless otherwise agreed by the City and Contractor, any mediation conducted hereunder shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has commenced.

H. The City reserves all rights and remedies that it has pursuant to the Construction Contract, plans and specification, at law or in equity which are not in conflict with PCC 9204.

This Section shall be automatically extended if legislation is lawfully passed which extends the terms of Public Contract Code Section 9204 beyond January 1, 2027.

33. <u>CONFLICT OF LAW</u>:

This Agreement shall be interpreted under, and enforced by the laws of the State of California excepting any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.) Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

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34. ADVERTISEMENT:

Contractor shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from the City to do otherwise.

35. WAIVER:

A waiver by the City of any breach of any term, covenant, or condition contained herein, shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

36. INTEGRATED CONTRACT:

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both the City and Contractor.

37. INSERTED PROVISIONS:

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

38. CAPTIONS:

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

39. COUNTERPARTS:

This Agreement may be executed in any number of counterparts (including by fax, PDF, DocuSign, or other electronic means), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

40. SIGNATORY:

By signing this Agreement, each signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

41. CONTROLLING AGREEMENT:

In the event of a conflict between the terms and conditions of this Agreement (as amended, supplemented, restated or otherwise modified from time to time) and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

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IN WITNESS WHEREOF, the parties have caused the Agreement to be executed on the day and year first above written.

Power Engineering Construction Co.
a California corporation

Daivd Mik
President

Hilary Tigue
Vice President

Contractor License No.488215 Class A/b/HAZ

DIR No. 1000007181

CITY OF ALAMEDA,
a municipal corporation

Amy Wooldridge
Assistant City Manager

RECOMMENDED FOR APPROVAL

Signed by:
Erin Smith
Erin Smith
Public Works Director

APPROVED AS TO FORM:
City Attorney

Signed by:
michael Roush
Len Aslanian
Assistant City Attorney

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BIDDER: Power Engineering Construction Company **PROPOSAL FOR PW 07-24-21**

5 BID PROPOSAL TO THE CITY OF ALAMEDA

NAME OF BIDDER Power Engineering Construction Company

BUSINESS ADDRESS 1501 Viking Street, Suite 200

CITY, STATE, ZIP Alameda, CA, 94501

TELEPHONE NO: AREA CODE (510) 337-3800

The Work for which this proposal is submitted is for construction in accordance with the Contract Documents.

The Project plans for the Work to be done were approved and are entitled:

Lagoon 5 Dredging Project and Lagoon System Outfall Maintenance Project
PW NO. 07-24-21
CITY OF ALAMEDA
ALAMEDA COUNTY, CALIFORNIA

Bids are to be submitted for the entire Work. The amount of the bid for comparison purposes will be the total of bid items, including revocable bid items.

Bid bond or check. Accompanying this proposal is Bidder's Bond, [Insert: Cash $_____, Cashier's Check, Certified Check, or Bidder's Bond, as the case may be] in an amount equal to at least 10% of the total of the bid.

Execution within ten days. The Bidder agrees to execute the required contract(s), with necessary bonds, within ten calendar days of notification that the City has accepted the bid and the con-tract is ready for signature. If the Bidder fails to do so, the City may, at its option, determine that the Bidder has abandoned the contract. The penalty for default is forfeiture to the City of Alameda of the proceeds of the proposal guarantee accompanying this bid.

Addenda. This proposal is submitted to include the changes to the Contract Documents as Addendum numbers 01. [Fill in if addenda have been issued.] If addenda issued, print, sign and date each addenda and include with this bid proposal.

Warning. If the City has issued an addendum or addenda, the City may reject this Proposal if all addenda are not noted above as being received by the Bidder.

License. The Bidder is licensed in accordance with the State of California Contractor's License Law.

License No. 488215

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BIDDER: Power Engineering Construction Company **PROPOSAL FOR PW 07-24-21**

Class A/B/HAZ

Expiration Date 03/31/2026

Bidder's status. If an individual, so state. If a firm co partnership, state the firm name and give the names of all individuals or copartners composing the firm. If a corporation, state legal names of corporation and also names of President, Secretary, Treasurer and Manager.

The names of all persons interested in the Bid Proposal as principals are as follows:
[Note: If Bidder or other interested person is a corporation, state legal name of the corporation, also names of the president, secretary, treasurer, and manager; if a co-partnership, state name of firm, also names of all individual co-partners composing firm; if Bidder or other interested person is an individual, state first and last names in full. Use additional pages if necessary.]

Corporation: Power Engineering Construction Company

President: David Mik, Secretary: Wayne Stonecipher, Treasurer: Hilary Tigue

Documents included in Bid Proposal and Schedule. The following are attached and included in the Bid Proposal and Schedule:

- ☐ 5 Bid Proposal
- ☐ 5-1 Bid Schedule
- ☐ 5-2 Proposed Subcontractor Form
- ☐ 5-3 NOT USED
- ☐ 5-4 Non-collusion Declaration
- ☐ 5-5 Questionnaire to General Contractors
- ☐ 5-6 Bidder's Statement of Financial Responsibility, Technical Ability and Experience
- ☐ 5-7 Bidder's Bond
- ☐ 5-8 Bidder's Request for Material Substitution
- ☐ 5-9 Guaranty
- ☐ 5-10 NOT USED

Signature. Under penalty of perjury, I declare that to the best of my knowledge and belief: the representations made in these Bid Documents are true, correct and complete.

SIGNATURE OF BIDDER

Print or Type Name, Address and Telephone Number:

Hilary Tigue, 1501 Viking Street, Suite 200 - Alameda, CA 94501 (510) 337 - 3800

DATED: August 20, 2024

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BIDDER: Power Engineering Construction Company **PROPOSAL FOR PW 07-24-21**

5-1 BID SCHEDULE FOR LAGOON 5 DREDGING PROJECT AND LAGOON SYSTEM OUTFALL MAINTENANCE PROJECT

TO: CITY COUNCIL, CITY OF ALAMEDA, CALIFORNIA

The undersigned Bidder declares that Bidder has carefully examined the Project Manual, and is satisfied as to the field conditions the Bidder will encounter. The Bidder proposes to furnish all materials, labor and equipment and to do all Work required to complete the Work in accordance with the Project Manual, for the prices set forth in the following schedule (including all applicable taxes):

Bid Item	Description	Unit of Measure	Quantity	Unit Price	Total Price
LAGOON 5 DREDGING PROJECT:					
1	MOBILIZATION	LS	1	$130,700	$130,700
2	WATER POLLUTION CONTROL PLAN	LS	1	$21,300	$21,300
3	TRAFFIC CONTROL PLAN	LS	1	$8,900	$8,900
4	EXCAVATION	CY	353	$447	$157,791
LAGOON SYSTEM OUTFALL MAINTENANCE PROJECT:					
1	MOBILIZATION	LS	1	$37,400	$37,400
2	WATER POLLUTION CONTROL PLAN	LS	1	$31,600	$31,600
3	TRAFFIC CONTROL PLAN	LS	1	$8,900	$8,900
4	CULVERT EXCAVATION	CY	134	$853	$114,302
5	CHANNEL EXCAVATION	CY	131	$519	$67,989
6	RIP-RAP EXCAVATION	CY	213	$290	$61,770
7	REMOVE UNSOUND CONCRETE	SF	48	$371	$17,808
8	PORTLAND CEMENT CONCRETE (PATCH)	SF	48	$330	$15,840
9	FURNISH AND ERECT CULVERT STEEL SAFETY GRATE (GALVANIZED STEEL)	EA	1	$78,300	$78,300
10	EPOXY CRACK INJECTION	LF	10	$593	$5,930
				TOTAL BID (BASE BID ITEMS ABOVE ONLY):	$758,530
	LAGOON SYSTEM OUTFALL MAINTENANCE PROJECT BID ALTERNATE:				
9A	FURNISH AND ERECT CULVERT STEEL SAFETY GRATE (STAINLESS STEEL)	EA	1	$108,600	$108,600

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Entire Work. Bids are required for the entire Work, including the alternative bid items if any. The amount of the bid for the purposes of the award will be the total of the amount of all the base bid items. The City will determine which additional alternate(s), if any, will be awarded. All items are based on an "in place" condition.

Item price and total. The Bidder shall set forth for each unit basis item of Work an item price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

Discrepancies. In the case of discrepancy between the item price and the total set forth for a unit basis item, the item price shall prevail. However, if the amount set forth as an item price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or is the same amount as the entry in the "total" column, then the amount set forth in the "total" column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the item price.

Quantities. The foregoing quantities are approximate only, being given as a basis for the comparison of bids. The City does not, expressly or by implication, agree that the actual amount of Work will correspond with the quantities, but reserves the right to increase or decrease the amount of any class or portion of the Work, or to omit any portion(s) (this includes complete base bid items) of the Work, as the Engineer deems necessary or advisable, at the contract price. Price negotiations on the contract prices are optional if the actual amount of Work is different from the above estimates by 25% or greater.

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BIDDER: Power Engineering Construction Company

5-2 PROPOSED SUBCONTRACTOR FORM

A subcontractor is any entity, not a direct employee of the prime Contractor, which performs any work on the Project in excess of one half of one percent (.5%) of the prime Contractor's total bid. The Bidder is **required** to state the name, location of the place of business, and the California contractor license number per California PCC section 4104, of each subcontractor and the work which each subcontractor will perform. The Bidder hereby submits a list of subcontractors whom the Bidder proposes to employ on the work with the proper firm name and business contact information, work and value of each. If no subcontractors, sign form with none listed and include form with Bid Proposal.

SUBCONTRACTOR'S NAME	CA LICENSE NO.	BUSINESS ADDRESS	DESCRIPTION OF WORK/CONTRACT BID ITEM	DIR NO.
N/A				

(This form may be duplicated if necessary to list additional subcontractors)

Signed: _____

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5-3 EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

NOT USED.

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5-4 NON-COLLUSION DECLARATION

Title 23 United States Code section 112, and

PCC section 7106

The undersigned declares:

I am the Vice President of Power Engineering Construction Company, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted this bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on August 20, 2020, at Alameda (city), California."

(Signature of representative of Bidder)

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Exhibit A

POWER
ENGINEERING CONSTRUCTION

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda)

On August 30th, 2024 before me, Kristin Cherie Elam, Notary Public
(insert name and title of the officer)

personally appeared Hilary Tigue —,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

KRISTIN CHERIE ELAM
Notary Public - California
Alameda County
Commission # 2393045
My Comm. Expires Mar 5, 2026

Signature _____ **(Seal)**

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5-5 QUESTIONNAIRE TO GENERAL CONTRACTORS

1. Bid depository or registry services. Were bid depository or registry services used in obtaining subcontractor bid figures in order to compute your bid?

YES [ ] NO [X]

If the answer to No. 1 is "yes," please forward a copy of the rules of each bid depository you used with this questionnaire.

2. Other source of subcontractors. Did you have any source of subcontractor bids other than bid depositories?

YES [ ] NO [X]

3. Threats of boycott or other sanctions. Has any person or group threatened you with subcontractor boycotts, union boycotts, or other sanctions to attempt to convince you to use the services or abide by the rules of one or more bid depository?

YES [ ] NO [X]

If the answer to No. 3 is "yes," please explain the following details:

a. Date:
b. Name of person or group:
c. Job involved (if applicable):
d. Nature of threat:
e. Additional comments (use additional paper if necessary):

4. Disqualification or removal. Have you, any officer of Bidder, or any employee who has a proprietary interest in Bidder ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation? If so, explain the circumstances. (PCC §10162.)

YES [ ] NO [X]

5. Federal court action. No more than one final, un-appealable finding of contempt of court by a federal court has been issued against the Bidder within the immediately preceding two-year period because of the contractor's failure to comply with an order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board. (For purposes of this section, a finding of contempt does not include any finding which has been vacated, dismissed, or otherwise removed by the court because the contractor has complied with the order which was the basis for the finding.) (PCC §10232.)

TRUE? [X]

6. No convictions. Neither the Bidder nor any proposed subcontractor (nor the partner, member, officer, director, responsible managing officer, or responsible managing employee

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of either of them) has been convicted of any of the following offenses: fraud, bribery, collusion, conspiracy, bid-rigging, price-fixing, or any other act in violation of any state or federal antitrust or public corruption law in connection with the bidding upon, award of, or performance of, any public works contract with any public entity. (PCC §10285.1.)

TRUE? [X]

7. Non-discrimination program. Bidder has developed a non-discrimination program, as required by Title 2 California Code of Regulations section 8104 (unless exempt under Section 8115). (2 Cal. Code Regs 8103.)

YES [X] NO [ ]

8. The Bidder and all subcontractors are registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement).

TRUE [X]

9. Litigation. Please provide the following information on all state or federal litigation in which Bidder or any proposed subcontractor was a named party: None

a. Case name

b. Case location (including county and state for state litigation, or district for federal litigation)

c. Year case was filed

d. Whether case is pending or resolved

SIGNED: _____

Please return this form with your bid proposal.

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5-6 BIDDER'S STATEMENT OF FINANCIAL RESPONSIBILITY TECHNICAL ABILITY AND EXPERIENCE

The Bidder is required to state what work of a similar character to that included in the proposed contract the Bidder has successfully performed and give reference which will enable the City Council to judge his responsibility, experience skill, and business standing.

[The Bidder shall have at least three years of experience as a licensed Contractor and shall submit with the bid a list of five projects in the Bay Area installed during the three-year period. At least three of the projects shall include similar dredging work.]

The Bidder shall submit with the bid proposal a statement of the work of a similar size and character to that included in the proposed contract which the Bidder has successfully performed.

Agency for Whom Work Was Done	Contact Name w/ Phone #	Project	Completion Date	Contract Price
Water Emergency Transportation Authority	Chad Mason 415-291-3577	Central Bay Operations and Maintenance Facility	12/14/18	$25,920,310
Water Emergency Transportation Authority	Mike Gougherty 415-291-3379	San Francisco Downtown Ferry Terminal Expansion	2/28/20	$79,393,274
East Bay Regional Parks District	Carmen Erasmus 510-409-3008	Encinal Beach Dune and Shoreline Restoration	1/1/21	$787,382
Central Contra Costa Sanitary District	Mark Wenslawski 925-250-2499	CCCSD Outfall Improvements	8/31/21	$4,408,669
San Francisco Airport (SFO)/Yerba Buena Engineering	Miguel Galarza 415-822-4400	SFO Storm Drain Pump Station Outfall Retrofit	3/31/23	$748,375

SIGNED: _____

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5-8 BIDDER'S REQUEST FOR MATERIAL SUBSTITUTION

The Bidder has 15 calendar days after award of the contract for submission of data substantiating a request for a substitution of "an equal" item(s). (See Bid Documents, Section 3-5.) A request for a substitution of material must be identified on this sheet and submitted as part of the Bid Proposal. If no material substation requests, leave the table blank, sign the form and submit with bid.

The Bidder here submits a list of substitute material for consideration as "an equal".

Trade Name/Model or Catalog Number as Specified in Special Provisions	Substitute Trade Name/Model or Catalog Number

Signed: _____

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5-9 GUARANTY

CITY OF ALAMEDA

A. The Bidder guarantees the construction and installation all of the Work included in this Project.

B. If within 12 months after the City accepts the Work under the Contract:

(a) any of the materials or equipment prove defective; or

(b) the Work as a whole proves defective due to faulty workmanship, material furnished or methods of installation; or

(c) the Work or any part of it fails to operate properly as originally intended and in accordance with the Contract Documents;

the Bidder/Contractor agrees to the following:

1. to reimburse the City, upon demand, for its expenses incurred in restoring the Work to the condition contemplated in the Project, including the cost of any equipment or materials replaced and the cost of removing and replacing any other Work necessary to make the replacement or repairs; or

2. upon demand by the City, to replace any such material and to repair the Work completely without cost to the City so that the Work will function successfully as originally contemplated.

C. The City has the unqualified option to make any needed replacements or repairs itself or to have those replacements or repairs done by the Bidder/Contractor. If the City chooses to have the Work performed by the Bidder/Contractor, the Bidder/Contractor agrees that the Bidder/Contractor will make the repairs and furnish the materials as are necessary, within a reasonable time after City's demand. If Bidder/Contractor fails or refuses to comply with the Bidder/Contractor's obligations under this guaranty, the City is entitled to all costs and expenses, including attorneys' fees, reasonably incurred by reason of that failure or refusal.

Bidder/Contractor

08/20/2024

Date

Docusign Envelope ID: B58FB2C6-9D27-41BB-858B-D16D3C9BE887

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/3/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Heffernan Insurance Brokers
1350 Carlback Avenue
Walnut Creek, CA 94596
License#: 0564249

CONTACT NAME: WalnutCreekAMS
PHONE (A/C, No, Ext): 925-934-8500 **FAX (A/C, No):** 925-934-8278
E-MAIL ADDRESS: WalnutCreekAMS@heffins.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Starr Indemnity & Liability Company	38318
INSURER B : United States Fire Insurance Company	21113
INSURER C : Illinois Union Insurance Company	27960
INSURER D : The Insurance Company of the State of PA	19429
INSURER E :	
INSURER F :	

INSURED
Power Engineering Construction Co.
1501 Viking Street, Suite 200
Alameda, CA 94501
POWEENG-03

COVERAGES **CERTIFICATE NUMBER:** 1175469556 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	Y		MASILSF00008124	8/1/2024	8/1/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG EMPLOYEE BENEFITS	$ 1,000,000 $ 50,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 1,000,000
B	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY X Comp/Coll / X Ded: 5,000	Y		1337571468	8/1/2024	8/1/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	UMBRELLA LIAB X OCCUR X **EXCESS LIAB** CLAIMS-MADE DED X RETENTION $ 0	Y		MASILSF00008224	8/1/2024	8/1/2025	EACH OCCURRENCE AGGREGATE	$ 4,000,000 $ 4,000,000
D	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	WC65437345	10/1/2023	10/1/2024	X PER STATUTE X OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	Includes USL&H $ 1,000,000 $ 1,000,000 $ 1,000,000
C C A	Pollution Liability Professional Liability Hull & Mach/Prot. & Ind/Jones Act	Y		COOG22085839020 COOG22085839020 MASILSF00008124	8/1/2024 8/1/2024 8/1/2024	8/1/2025 8/1/2025 8/1/2025	Ea. Occ./Agg/SIR Ea. Claim/Agg/SIR Ea. Occ./Ded	$5M/$5M/$25,000 $2M/$2M/$25,000 $1M/$5,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: PW #07-24-21, The Alameda Lagoon 5 Dredging and Lagoon System Outfall Maintenance Project, City of Alameda, Alameda County, CA. The City, City of Alameda, its City Council, boards, commissions, officials, employees, agents and volunteers are included as additional insured (primary and non-contributory) on the General liability, Automobile Liability and Excess Liability policies, per the attached endorsements if required and additional insured on Pollution Liability policy, if required. The Additional Insured endorsement has been requested for the Pollution Liability policy from the insurance company and if approved will be forwarded when received. The Primary and Non-Contributory on Pollution Liability policy is attached, if required. Waivers of Subrogation are included on Workers Compensation policy per the attached endorsement, if required. Cancellation notice endorsement for the General Liability, Excess Liability, Workers Compensation and Pollution Liability policies are attached, if required.

Initial: LC 9/18/2024

CERTIFICATE HOLDER
City of Alameda
950 West Mall Sq, Rm 110
Alameda, CA 94501

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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			Policy No: MASILSF00008224
Commercial Marine Liability	8/1/2024 - 25	$1,000,000 Each Occurrence $2,000,000 Gen. Aggregate $1,000,000 Per & Adv Inj $2,000,000 Products/CO Agg	Starr Indemnity & Liability Co. Policy No. MASILSF00008124
Employee Benefits Liability	8/1/2024 - 25	$1,000,000 Aggregate	Starr Indemnity & Liability Co. Policy No. MASILSF00008124
Auto Liability	8/1/2024 - 25	$1,000,000 CSL	United States Fire Insurance Company Policy No: 1 3 3 7 5 7 1 4 6 8
Protection & Indemnity Including Collision Liability	8/1/2024 - 25	$1,000,000 each vessel each accident or occurrence	Starr Indemnity & Liability Co. Policy No. MASIHSF00002124
Vessel Pollution Liability	1/19/2024 – 25	$5,000,000 Per Occurrence	State National Ins. Co. Lead (Subscription) thru Safe Harbor Pollution Insurance Policy No. V-14661-24
Contractors Pollution Liability excess of Vessel Pollution Policy	8/1/2024 - 25	$2,000,000 Per Claim $5,000,000 Aggregate	Illinois Union Ins. Co. Policy No. COOG22085839020
Employers Liability	10/1/24 – 25	$1MM/$1MM/$1MM	National Union Fire Insurance Company of Pittsburgh, PA Policy No: WC065437345

ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NO.: MASILSF00558424.

OF THE: STARR INDEMNITY & LIABILITY COMPANY.

ISSUED TO: POWER ENGINEERING CONSTRUCTION COMPANY, ET AL

POLLUTION LIMITATION ENDORSEMENT (BUMBERSHOOT)

Notwithstanding any other provision of this policy or of any underlying insurance, this policy of insurance is not evidence of financial responsibility under the Oil Pollution Act of 1990 or any similar Federal or State Laws. Any showing or offering of this policy by the Assured as evidence of insurance shall not be taken as any indication that the Underwriters consent to act as guarantor or to be sued directly in any jurisdiction whatsoever. The Underwriters DO NOT CONSENT TO BE GUARANTORS OR SUED DIRECTLY.

Notwithstanding anything to the contrary, this policy shall not apply to any claim arising directly or indirectly in consequence of the discharge, dispersal, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials, oil or other petroleum substance or derivative (including any oil refuse or oil mixed wastes) or other irritants, contaminants or pollutants into or upon land, the atmosphere, or any watercourse or body of water.

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AGENCY CUSTOMER []: POWEENG-03

LOC #:

ACORD®

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED 1NSURED
Heffernan Insurance Brokers License #0564249	Power Engineering Construction Co. 1501 Viking Street, Suite 200 Alameda,CA 94501
POLICY NUMBER SEE PAGE 1	
CARRIER: SEE PAGE 1 — NAIC CODE: SEEP 1	EFFECTIVE DATE: SEE PAGE 1

ADDITIONAL REMARKS

THIS ADD(Tf:)NAL REMARKS FORM IS A SCHEDULE TO **ACORD FORM,**
FORM NUMBER: ACORD 25 **FORM** TITLE: Certificate of Liability Insurance

Policy Term 8/1/2024 to 8/1/2025
1ST LAYER UMBRELLA- Limit: $4,000,000
Starr Indemnity & Liability Co. (NAIC 38318) Policy# MASILSF00008224

2ND LAYER UMBRELLA - Limit $5,000,000 x $4,000,000
Endurance Risk Solutions (NAIC 43630) Policy# OMX10015029504
Ascot Insurance Company (NAIC 23752) Policy# MAXS231000164205

3RD LAYER UMBRELLA - Limit: $5,000,000 x $9,000,000
Starr Indemnity & Liability Co. (NAIC 38318) Policy# MASILSF00008224

4TH LAYER UMBRELLA- Limit: $10,000,000 x $14,000,000
Liberty Mutual Insurance Company (NAIC 27154) Policy# SFABUABS005
Starstone National Insurance (NAIC 25496) Policy #U83436230MAR

Policy Term 9/20/2023 to 9/20/2024
5TH LAYER UMBRELLA - Limit: $25,000,000 x $24,000,000
60% U.S. Specialty Insurance Co (NAIC 29599) Policy #CXS11916.093
20% Endurance Risk Solutions Assurance Co. (NAIC 43630) Policy #OMX100015250102
20% Liberty Mutual Insurance Co (NAIC 23043) Policy# SFACC81003

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EFFECTIVE: 12:01 A.M., AUGUST 1, 2024 ATTACHED TO AND FORMING PART OF

POLICY NO.: MASILSF00008124

OF THE: STARR INDEMNITY & LIABILITY COMPANY.

ISSUED TO: POWER ENGINEERING CONSTRUCTION COMPANY, ET AL

BLANKET ADDITIONAL ASSURED AND WAIVER OF SUBROGATION ENDORSEMENT

It is agreed that the Company waives its right of subrogation against any person or organizations to whom the Named Assured is obligated by written contract to provide such waiver, but only to the extent of such obligation and only with respect to operations by or on behalf of the Named Assured or to the facilities of or used by the Named Assured.

It is further agreed that to the extent that the Named Assured is obligated by written contract to name any person or organization as additional assureds hereunder, the Company agrees that such persons or organizations shall be considered as Additional Assureds but only with respect to operations performed by or on behalf of the Named Assured or to the facilities of or used by the Named Assured.

ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNCHANGED.

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POLICY NUMBER: 1337571468

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

POWER ENGINEERING CONSTRUCTION CO. POWER ENGINEER

A.	**Broadened Insured Status**	**N.**	**Audio, Visual, and Data Electronic Equipment**
	SCHEDULE		
B.	**Blanket Additional Insured When Required Under Written Contract**	**O.**	**Loan/Lease Payoff Coverage**
		P.	**Airbag Coverage**
C.	**Employee Hired Autos Liability Coverage**	**Q.**	**Multiple Deductible Protection – Covered Auto and Trailer**
D.	**Employees as Insureds**	**R.**	**Duties in the Event of an Accident, Claim, Suit, or Loss**
E.	**Coverage Extensions – Supplementary Payments**	**S.**	**Non-Owned Auto Waiver of Subrogation**
F.	**Limited Fellow Employee Coverage**	**T.**	**Blanket Waiver of Subrogation When Required Under Written Contract**
G.	**Limited Hired Auto – Physical Damage Coverage – Private Passenger (Includes Employee Hired Autos Physical Damage Coverage)**	**U.**	**Coverage Territory – Short Term Hired Commercial Autos**
H.	**Custom Signs and Decoration**	**V.**	**Limited Mexico Coverage**
I.	**Extended Towing Coverage**	**W.**	**Unintentional Failure to Disclose Hazards**
J.	**Glass Breakage**	**X.**	**Mental Anguish Resulting From Bodily Injury**
K.	**Reimbursement for Increased Temporary Transportation Expense for Private Passenger and Commercial Vehicles**	**Y.**	**Waiver of Sovereign Immunity**
L.	**Extra Expense – Stolen Vehicles**	**Z.**	**Application of This Endorsement**
M.	**Personal Effects Coverage**		

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A. Broadened Insured Status

Paragraph **A.1. Who Is An Insured** under **Section** II - **Covered Autos Liability Coverage** is amended to include the following as "insureds":

1. Any subsidiary which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Form, while using with your permission a covered "auto."

However, the insurance afforded by this provision, **A.1.,** does not apply to any subsidiary that is an insured under any other automobile liability policy, or would be an insured under such policy but for the termination of such policy or the exhaustion of such policy's limits of insurance.

2. Any organization you newly acquire or form, and over which you maintain majority interest, while using with your permission a covered "auto".

The insurance afforded by this provision, **A.2.:**

a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.

b. Does not apply to "bodily injury" or "property damage" resulting from an "accident" that occurred before you acquired or formed the organization.

c. Does not include any newly acquired or formed organization that is:

(1) A joint venture or partnership; or

(2) An insured under any other automobile liability policy, or would be an insured under such policy but for the termination of such policy or the exhaustion of such policy's limits of insurance.

B. Blanket Additional Insured When Required Under Written Contract

1. Paragraph **A.1. Who Is An Insured** under **Section** II - **Covered Autos Liability Coverage** is amended to include the following as "insureds":

a. Any person, organization or governmental entity with respect to the operation, maintenance, or use of a covered "auto" if you are required to add such person, organization or governmental entity to this policy as an additional "insured" in order to comply with the terms of a written contract or written agreement. This additional insured status is not conferred when such written contract or written agreement:

a. Involves the owner or anyone else from whom you hire or borrow a covered "auto" unless it is a "trailer" connected to a covered "auto" you own; or

b. Is executed after the date of "accident" or "loss".

Paragraph **B.1.a.(2)** above does not apply if:

(1) The terms and conditions of the written contract or written agreement had been agreed upon prior to the "accident" or "loss"; and

(2) You can definitively establish that the terms and conditions of the written contract or written agreement ultimately executed are the same as those which had been agreed upon prior to the "accident" or "loss".

2. Paragraph **B.5.a.** under **Section IV - Business Auto Conditions** is amended by the addition of the following:

Other Insurance

Regardless of whether other insurance is maintained by an additional insured on a primary basis, the coverage provided by Provision **B.** of the Commercial Auto Broad Form Endorsement will be primary to and noncontributing with other insurance maintained by the additional insured if the written contract or written agreement between you and the additional insured specifically requires that this insurance be primary.

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C. Employee Hired Autos Liability Coverage

Paragraph **A.1. Who Is An Insured** under **Section** II - **Covered Autos Liability Coverage** is amended to include the following as "insureds":

1. An "employee" of yours is an "insured" while operating an "auto" hired or rented under a written contract or written agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

D. Employees as Insureds

Paragraph **A.1. Who Is An Insured** under **Section** II - **Covered Autos Liability Coverage** is amended to include the following as "insureds":

1. Any "employee" of yours while using with your permission a covered "auto" you don't own, hire or borrow if such "auto" is being used in your business or your personal affairs.

E. Coverage Extensions - Supplementary Payments

Paragraphs **A.2.a.(2)** and **A.2.a.(4)** under **Section** II - **Covered Autos Liability Coverage** are deleted and replaced by the following:

Coverage

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

(2) Up to $5,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $1,000 a day because of time off from work.

F. Limited Fellow Employee Coverage

Paragraph **B.5.** under **Section** II - **Covered Autos Liability Coverage** is amended by the addition of the following:

Exclusions

5. Fellow Employee

However, this exclusion does not apply if:

c. The "bodily injury" results from the use of a covered "auto" you own or hire; and

d. You have Workers' Compensation insurance in force covering all of your "employees".

Such coverage as is afforded by provisions **F.5.c.** and **F.5.d.** above are excess over any other collectible insurance.

G. Limited Hired Auto - Physical Damage Coverage - Private Passenger (Includes Employee Hired Autos Physical Damage Coverage)

Paragraph **A.1.** under **Section** III - **Physical Damage Coverage** is amended by the addition of the following:

Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

d. Limited Hired Auto - Physical Damage - Private Passenger

If hired "autos" are covered "autos" for Covered Autos Liability Coverage, and if Physical Damage Coverage of Comprehensive or Collision is provided under this Coverage Form for any "auto" you own, then Comprehensive and Collision Physical Damage Coverages as provided under **Section** III - **Physical Damage Coverage** of this Coverage Part are extended to "autos" of the private passenger type you or your "employee" hires under a written contract or written agreement without a driver, at your direction, for the purpose of conducting your business, subject to the following:

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(1) The most we will pay for "loss" to any hired "auto" is the lessor of $35,000 or the actual cash value or cost to repair or replace;

(2) The deductible will be equal to the largest deductible applicable to any owned "auto" of the private passenger type for that coverage, or $1,000, whichever is less;

(3) Limited Hired Auto - Physical Damage - Private Passenger coverage is excess over any other collectible insurance; and

(4) Subject to the above limit, deductible, and excess provisions we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own of the private passenger type insured under this policy.

Coverage includes loss of use of that hired "auto", provided it results from an "accident" for which you are legally liable and as a result of which a monetary loss is sustained by the leasing or rental concern. The most we will pay for any one "accident" is $20 per day subject to a maximum of $1,000.

If a limit for Hired Auto - Physical Damage is shown in the Schedule of any other endorsement, then that limit replaces, and is not added to, the $35,000 limit indicated above.

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

H. Custom Signs and Decoration

The following is added to Paragraph **A.1.** under **Section** III - **Physical Damage Coverage:**

In the event of a total loss to an "auto" insured for Physical Damage Coverage on this policy, in addition to the actual cash value of the "auto", we will pay the actual cost to repair or replace signage or custom paint details up to $5,000.

I. **Extended Towing Coverage**

1. If the named insured carries Comprehensive and Collision Coverage for the damaged covered "auto", then this coverage extension, I., applies to that covered "auto".

If the damaged covered "auto" is of the private passenger type, then in addition to Comprehensive and Collision Coverage, the damaged covered "auto" must also carry Towing Coverage in order for this coverage extension, I., to apply.

2. Paragraph **A.2.** under **Section** III - **Physical Damage Coverage** is deleted and replaced by the following:

Towing

We will pay for towing and associated labor costs each time a covered "auto" is disabled. All labor must be performed at the place of disablement. If the "auto" is of the private passenger type, there will be no deductible. If the "auto" is not a private passenger type, a $250 deductible will apply to this coverage but it will not reduce the available limit of insurance. For all types of "autos", the most we will pay under this coverage is $1,000 per disablement. "Autos" which are disabled do not include stolen vehicles.

J. Glass Breakage

If you carry Comprehensive Coverage for the damaged covered "auto", then this coverage extension applies to that covered "auto":

Paragraph **A.3.** Glass Breakage - Hitting A Bird Or Animal - Falling Objects Or Missiles under **Section** III - **Physical Damage Coverage** is amended by the addition of the following:

Any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced. If the glass must be replaced and there is no other damage associated with the "loss", the deductible will be $100 unless a lower deductible is shown on the declarations page for this coverage.

K. Reimbursement for Increased Temporary Transportation Expense for Private Passenger and Commercial Vehicles

1. If the Covered "Auto" has Comprehensive or Specified Causes Of Loss Physical Damage Coverage:

Paragraph **A.4.a.** under **Section** III - **Physical Damage Coverage** is deleted and replaced by the following:

Coverage Extensions

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a. Transportation Expenses

If your covered "auto" is damaged or stolen and the damage or theft is covered by Comprehensive or Specified Causes of Loss coverage provided by this policy, we will pay up to $50 per day subject to a maximum limit of $1,500 for the necessary and actual temporary transportation expenses (including rental reimbursement) incurred by you during the period beginning 24 hours after the theft or damage and ending, regardless of the policy's expiration:

a. When the covered "auto" is returned to use or we pay for its "loss" in the event of a total theft of the covered "auto"; or

b. When the covered "auto" is repaired or replaced, or we pay for its "loss", whichever is earlier in the event of a "loss" due to a cause other than the total theft of the covered "auto".

Except with respect to losses pertaining to the total theft of covered "autos" of the private passenger type, this coverage does not apply while there are spare or reserve "autos" available to you.

No deductible applies to this coverage.

2. If the Covered "Auto" has Collision Physical Damage Coverage:

If your covered "auto" is damaged and the damage is covered by Collision coverage provided by this policy, we will pay up to $50 per day subject to a maximum limit of $1,500 for necessary and actual temporary transportation expenses (including rental reimbursement) incurred by you during the period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, when the covered "auto" is repaired or replaced, or we pay for its "loss", whichever is earlier.

This coverage does not apply while there are spare or reserve "autos" available to you.

No deductible applies to this coverage.

L. Extra Expense - Stolen Vehicles

Paragraph **A.4.a.** under **Section** III - **Physical Damage Coverage** is amended by the addition of the following:

We will pay for all reasonable and necessary expenses to return a stolen covered "auto" to the named insured if such covered "auto" carries Comprehensive coverage.

M. Personal Effects Coverage

Paragraph **A. Coverage** under **Section** III - **Physical Damage Coverage** is amended to include the following coverage:

1. Personal Effects Coverage

a. We will pay for "loss" to personal property or effects which are owned by an insured and in or on your covered "auto" at the time of "loss" in the event of a total theft of that covered "auto".

b. Subject to Paragraph **C. Limit Of Insurance** under **Section** III - **Physical Damage Coverage,** we will pay up to $500 for "loss" of personal property or effects in any one "accident" involving total theft of a covered "auto".

This insurance will not apply if, at the time of "loss", the covered "auto" is unattended, unless the "loss" is the result of forced entry into the covered "auto" while all doors, windows or other openings are closed and locked and there is evidence of forced entry.

Under this coverage, we will not pay for "loss" to the following: accounts, bills, currency, deeds, evidences of debt, money, notes or securities; electronic equipment or tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment; jewelry, watches, necklaces, bracelets, gems, gold, platinum, silver, furs; animals, birds, or fish or any motorized vehicle.

This coverage will be excess over any other collectable insurance. No deductible applies to this coverage.

N. Audio, Visual, and Data Electronic Equipment

The sub-limit in Paragraph **C.1.b.** of the Limit of Insurance Provision of **Section** III - **Physical Damage Coverage** is increased to $1,500.

0. Loan/Lease Payoff Coverage

Paragraph **C. Limit of Insurance of Section** III - **Physical Damage Coverage** is amended by the addition of the following:

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In the event of a total "loss" to a covered "auto" shown in the schedule or declarations for which Collision and Comprehensive Coverage apply, we will pay any unpaid amount due on the lease or loan for that covered "auto," less:

1. The amount paid under the Physical Damage Coverage Section of the policy; and
2. Any:
   a. Overdue lease/loan payments at the time of the "loss";
   b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
   c. Security deposits not returned by the lessor;
   d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
   e. Carry-over balances from previous loans or leases.

This coverage is limited to a maximum of $1,500 for each covered "auto".

P. Airbag Coverage

1. If the Named Insured carries Comprehensive and Collision Coverage for the damaged covered "auto", then this coverage extension, **P.,** applies to that covered "auto".
2. Paragraph **B.3.a.** under **Section** III - **Physical Damage Coverage** is amended by the addition of the following:

   The accidental discharge of an airbag shall not be considered mechanical or electrical breakdown and therefore shall not be excluded. This provision does not apply to "autos" you hire with a driver and it is excess over any warranty specifically designed to provide this coverage.

Q. Multiple Deductible Protection - Covered Auto and Trailer

1. If you carry Comprehensive and Collision coverages for the damaged covered "autos", then this coverage extension, **Q.,** applies to those covered "autos".
2. Paragraph **D. Deductible** under **Section** III - **Physical Damage Coverage** is amended by the addition of the following:

   Whenever a covered "auto" and "trailer" are each damaged in the same "loss" while operating as a combined truck and "trailer" unit, only one deductible shall apply to the "accident". The larger of the two deductibles shall apply.

   If another policy or coverage form issued by us, that is not an automobile policy or coverage form, applies to the same "loss" or "accident", the following applies:

   a. If the deductible under this Business Auto Coverage Form is not the largest deductible, it will be waived.
   b. If the deductible under this Business Auto Coverage Form is the largest deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

R. Duties in the Event of an Accident, Claim, Suit, or Loss

1. Paragraph **A.2.a.** under **Section IV - Business Auto Conditions** is amended so that your obligations relative to notification requirements apply only when the "accident" or "loss" is known to:
   a. You, if your are an individual;
   b. A partner, if you are a partnership;
   c. A member, if you are a joint venture;
   d. An executive officer, insurance manager or any other person designated by you to send notices of "accidents" or "loss" to insurers, if you are a corporation; or
   e. A member, if you are a limited liability company.
2. Paragraph **A.2.b.(2)** under **Section IV - Business Auto Conditions** is amended so that your obligations relative to providing us with documents concerning a claim or "suit" will not be considered breached unless the breach occurs after such claim or "suit" is known to:
   a. You, if your are an individual;
   b. A partner, if you are a partnership;
   c. A member, if you are a joint venture;

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d. An executive officer, insurance manager or any other person designated by you to send notices of "accidents" or "loss" to insurers, if you are a corporation; or

e. A member, if you are a limited liability company.

S. Non-Owned Auto Waiver of Subrogation

Paragraph **A.5.** under **Section IV - Business Auto Conditions** is amended by the addition of the following:

Loss Conditions

5. Transfer Of Rights Of Recovery Against others To Us

We hereby waive any right of subrogation against any of your officers, directors, or "employees" which might arise by reason of any payment under the insurance afforded by this policy for the operation, maintenance, use, loading, or unloading of non-owned "autos".

This waiver extends only to payments in excess of other valid and collectible insurance available to the officer, director, or "employee".

T. Blanket Waiver of Subrogation When Required Under Written Contract

Paragraph **A.5.** under **Section IV - Business Auto Conditions** is amended by the addition of the following:

Loss Conditions

5. Transfer Of Rights Of Recovery Against others To Us

However, we waive any right of recovery we may have against a person, organization or governmental entity when you have waived such right of recovery under a written contract or written agreement provided such written contract or agreement is:

a. Currently in effect or becoming effective during the term of this policy; and

b. Executed prior to the "accident" or "loss"; or

c. Executed after the "accident" or "loss" if:

(1) The terms and conditions of the written contract or written agreement had been agreed upon prior to the "accident" or "loss"; and

(2) You can definitively establish that the terms and conditions of the written contract or written agreement ultimately executed are the same as those which had been agreed upon prior to the "accident" or "loss".

U. Coverage Territory - Short Term Hired Commercial "Autos"

Paragraph **B.7.b.(5)** under **Section IV- Business Auto Conditions** is deleted and replaced by the following:

General Conditions

7. Policy Period, Coverage Territory

b. Within the Coverage territory

The coverage territory is:

(5) Anywhere in the world if a covered "auto" of the private passenger type, commercial van, pick-up, or truck type is leased, hired, rented or borrowed for a period of 30 days or less,

provided that the "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada, or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

V. Limited Mexico Coverage

WARNING

AUTO ACCIDENTS IN MEXICO ARE SUBJECT TO THE LAWS OF MEXICO ONLY - **NOT** THE LAWS OF THE UNITED STATES OF AMERICA. THE REPUBLIC OF MEXICO CONSIDERS ANY AUTO ACCIDENT A **CRIMINAL OFFENSE** AS WELL AS A CIVIL MATTER.

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IN SOME CASES THE COVERAGE PROVIDED UNDER **THIS ENDORSEMENT MAY NOT BE RECOGNIZED BY THE MEXICAN AUTHORITIES** AND WE MAY NOT BE ALLOWED TO IMPLEMENT THIS COVERAGE AT ALL IN MEXICO. YOU SHOULD CONSIDER PURCHASING AUTO COVERAGE FROM A LICENSED MEXICAN INSURANCE COMPANY BEFORE DRIVING INTO MEXICO.

THIS ENDORSEMENT DOES **NOT** APPLY TO ACCIDENTS OR LOSSES WHICH OCCUR OUTSIDE OF 25 MILES FROM THE BOUNDARY OF THE UNITED STATES OF AMERICA.

1. Paragraph **B.7.** under **Section IV - Business Auto Conditions** is amended by the addition of the following:

   Policy Period, Coverage Territory

   The coverage territory is extended to include Mexico but only for:

   a. "Accidents" or "losses" occurring within 25 miles of the United States border; and

   b. Trips into Mexico of 10 days or less.

2. For purposes of this Provision, **V.,** Paragraph **B.5.** under **Section IV - Business Auto Conditions** is deleted and replaced by the following;

   Other Insurance

   The insurance provided by this Provision, **V.,** will be excess over any other collectible insurance.

3. Paragraph **A. Coverage** under **Section** lll - **Physical Damage Coverage** is amended by the addition of the following:

   If a "loss" to a covered "auto" occurs in Mexico, we will pay for such "loss" in the United States. If the covered "auto" must be repaired in Mexico in order to be driven, we will not pay more than the actual cash value of such "loss" at the nearest United States point where the repairs can be made.

4. **Additional Exclusions**

   The following exclusions are added:

   This insurance does not apply:

   a. If the covered "auto" is not principally garaged and principally used in the United States.

   b. To any "insured" who is not a resident of the United States.

W. Unintentional Failure to Disclose Hazards

Paragraph **B. General Conditions** under **Section IV - Business Auto Conditions** is amended by the addition of the following:

If you unintentionally fail to disclose any hazards existing on the effective date of this policy, we will not deny coverage under this Coverage Form because of such failure. However, this provision does not affect our right to collect additional premium due to us as a result of these undisclosed hazards in accordance with our filed rating plans.

X. Mental Anguish Resulting From Bodily Injury

The definition of "bodily injury" under **Section V - Definitions** is deleted and replaced by the following:

"Bodily Injury" means physical injury, physical sickness or physical disease sustained by any person, including "mental anguish" or death resulting from any of these. It does not include mental anguish to any person which occurs in the absence of physical injury, physical sickness or physical disease to that person.

For the purpose of this provision, "mental anguish" shall mean any type of mental or emotional illness or distress.

Y. Waiver of Sovereign Immunity

The following provision applies if you are a "governmental entity" or we have added a "governmental entity" to your policy as an additional insured, and the "governmental entity" requires us to obtain permission prior to asserting a defense involving governmental immunity or the jurisdiction of the tribunal over the "governmental entity":

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1. We shall not raise any defense involving, in any way, the jurisdiction of the tribunal over the "governmental entity", the immunity of the "governmental entity" or its commissioners, officers, agents or employees, the governmental nature of such entity, or the provisions of any statutes respecting suits against the "governmental entity" without first obtaining express advance permission from the designated representative of the "governmental entity".

Application of this provision shall not subject us to liability for any portion of a claim or judgment in excess of the applicable limit of insurance.

For the purposes of this provision, "governmental entity" means a state, county, district, municipality, town, township, borough, parish, village, or other political subdivision or governmental agency or subdivision.

Z. Application of This Endorsement

The enhancements provided by this endorsement apply to the Business Auto Coverage Form. If your policy includes other endorsements in addition to this Commercial Automobile Broad Form Endorsement, and there is a conflict between any of the terms of such endorsement(s) and this Commercial Automobile Broad Form Endorsement, the terms of the other endorsement(s) shall be given priority and control over the terms set forth in this Commercial Automobile Broad Form Endorsement, even if the terms of such other endorsement(s) have the effect of limiting, excluding or reducing the coverage provided under this Commercial Automobile Broad Form Endorsement.

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ENDORSEMENT NO. EFFECTIVE: Augusts 1, 2024
12:01 A.M., **.A.**

ATTACHED TO AND FORMING PART OF POLICY NO.· MASILSF00008224
OF THE: STARR INDEMNITY & LIABILITY COMPANY.
ISSUED TO: POWER ENGINEERING CONSTRUCTION COMPANY, ET AL.

ADDITIONAL ASSURED AND WAIVER OF SUBROGATION ENDORSEMENT

It is hereby understood and agreed that *The City and County of San Francisco and the San Francisco Port Commission and Their Respective Officers, Directors, Employees and Agents* are named as an Additional Assureds under this policy, and this Company waives its rights of subrogation against this Additional Assured.

It is further agreed that to the extent that the Named Assured is obligated by written contract to name any person or organization as additional assures hereunder, the Company agrees that such persons or organizations shall be considered as Additional Assures but only with respect to operations performed by on behalf of the Named Assured or to the facilities of or used by the Named Assured.

It is agreed that the Company waives its right of subrogation against any person or organization to whom the Named Assured is obligated by written contract to provide such waiver, but only to the extent of such obligation and only with respect to operations by or on behalf of the Named Assured or to the facilities of or used by the Named Assured.

ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNCHANGED.

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ENDORSEMENT NO.: **EFFECTIVE: 12:01 A.M., AUGUST 1, 2024**

ATTACHED TO AND FORMING PART OF POLICY NO.: MASILSF00008124

OF THE: STARR INDEMNITY & LIABILITY COMPANY.

ISSUED TO: POWER ENGINEERING CONSTRUCTION COMPANY, ET AL

PRIMARY AND NON-CONTRIBUTORY INSURANCE

It is understood and agreed that, when required by a written contract, this policy shall be the principal coverage as respects the liabilities of the Named Assured and any other insurance carried by an Additional Assured shall not be contributory as respects the liabilities of the Named Assured, nor shall the Additional Assured be responsible for any premium hereunder.

ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNCHANGED.

Docusign Envelope ID: B58FB2C6-9D27-41BB-858B-D16D3C9BE887

ENDORSEMENT NO.: **EFFECTIVE:**

aUGUST 1, 2024 **12:01 A.M. PST, ATTACHED TO AND**

FORMING PART OF POLICY NO.: M A S I L S F 0 0 0 0 8 2 2 4

OF THE: STARR INDEMNITY & LIABILITY COMPANY.

ISSUED TO: POWER ENGINEERING CONSTRUCTION COMPANY, ET AL.

PRIMARY AND NON-CONTRIBUTORY INSURANCE

It is understood and agreed that, when required by a written contract, this policy shall be the principal coverage as respects the liabilities of the Named Assured and any other insurance carried by an Additional Assured shall not be contributory as respects the liabilities of the Named Assured, nor shall the Additional Assured be responsible for any premium here under

ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNCHANGED.

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STARR COMPANIES

Starr Marine
A Division of Starr Indemnity & Liability Company

BLANKET WAIVER OF SUBROGATION ENDORSEMENT

It is understood and agreed that the Company waives its right of subrogation against any person or organization to whom the Named Assured is obligated by written contract to provide such waiver, but only to the extent of such obligation and only with respect to operations by or on behalf of the Named Assured or to the facilities of or used by the Named Assured.

ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNCHANGED.

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basis over the remainder of the "policy period". Notwithstanding the foregoing, in the event a "claim" is first made against an "insured", or a "wrongful act", "pollution condition" or "site environmental condition" is first discovered by an "insured", during the "policy period", to which this insurance may apply, in whole or in part, then any remaining unearned premium, if any, shall be deemed immediately earned upon such event. Any unearned premium amounts due the "first named insured" upon cancellation of this Policy shall be calculated on a *pro rata* basis and refunded within thirty (30) days of the effective date of cancellation.

B. Inspection and Audit

To the extent of the "insured's" ability to provide such access, and with reasonable notice to the "insured", the Insurer shall be permitted, but not obligated, to inspect the "insured's" property and/or operations. Neither the Insurer's right to make inspections, the making of said inspections, nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the "insured" or others, to determine or warrant that such property or operations are safe or in compliance with applicable law.

The Insurer may examine and audit the "insured's" books and records during this "policy period" and extensions thereof and within three (3) years after the final termination of this Policy.

C. Legal Action Against the Insurer

No person or organization other than an "insured" has a right pursuant to this Policy:

1. To join the Insurer as a party or otherwise bring the Insurer into a suit against any "insured"; or
2. To sue the Insurer in connection with this insurance unless all of the Policy terms have been fully complied with.

A person or organization may sue the Insurer to recover after an agreed settlement or on a final judgment against an "insured". However, the Insurer shall not be liable for amounts that are not payable pursuant to the terms of this Policy or that are in excess of the applicable Limit of Liability. An agreed settlement means a settlement and release of liability signed by the Insurer, the "insured", and the claimant or the claimant's legal representative.

Coverage **E.**

Notwithstanding the foregoing, and solely with respect to coverage afforded pursuant to Coverage **E.** of this Policy, no action shall lie against the Insurer unless, as a condition precedent thereto, there has been full compliance with all of the terms and conditions of this Policy, and both the "responsible professionals" liability and the amount of the "responsible professionals'" obligations to pay have been finally determined either by final judgment against the "responsible professionals" after an actual contested "affirmative claim" or by the "named insured's" written settlement with the "responsible professionals" to which the Insurer has given its prior written approval.

D. Bankruptcy

The insolvency or bankruptcy of any "insured", or any "insured's" estate, shall not relieve the Insurer of its obligations pursuant to this Policy. However, any such insolvency or bankruptcy of the "insured", or the "insured's" estate, shall not relieve the "insured" of its "self-insured retention" obligations pursuant to this Policy. This insurance shall not replace any other insurance to which this Policy is excess, nor shall this Policy drop down to be primary, in the event of the insolvency or bankruptcy of any underlying insurer.

E. Subrogation

In the event of any payment pursuant to this Policy by the Insurer, the Insurer shall be subrogated to all of the rights of recovery against any person or organization, and the "insured" shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. All "insureds" shall do nothing to prejudice such rights. Any recovery as a result of subrogation proceedings arising pursuant to this Policy shall accrue first to the "insureds" to the extent of any payments in excess of the limit of coverage; then to the Insurer to the extent of its payment pursuant to the Policy; and then to the "insured" to the extent of the "self-insured retention". Expenses incurred in such subrogation proceedings shall be apportioned among the interested parties in the recovery in the proportion that each interested party's share in the recovery bears to the total recovery.

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.25086% per $100 of gross receipts up to $20,000,000, reducing to
.20893% per $100 of gross receipts over $20,000,000

(based on estimated annual "gross receipts" of $56,000,000 ex OCIP projects)

and applied against the minimum earned and deposit premium until same is exhausted, following which all further earned premium shall be due any payable to this Company at time of filing the report on which the earned premium is due. This Company shall have the right of set off against the claims payable under this policy of any premium due hereunder. It is agreed that the annual minimum earned premium hereunder shall be **$100,300.00.**

IV. LOCATIONS: Property, facilities, and offices of the Assured(s) that are owned, rented, leased or occupied and are insured hereunder:

1. **1501 Viking Street, Suite 200, Alameda, CA 94501**
2. **Pier 23, Port of San Francisco, San Francisco, CA 94111**
3. **101 The Embarcadero, #104 and #123, San Francisco, CA 94105**
4. **1020 Clinton Street, #200, Napa, CA 94558**

V. COVERAGE TERRITORY: This insurance applies only to Bodily Injury or Property Damage which occurs within the coverage territory.

VI. CANCELLATION: This policy may be canceled by the First Named Assured by mailing to the Company written notice when thereafter such cancellation shall be effective. This policy may be canceled by the Company by mailing to the First Named Assured at his last known address written notice stating when, not less than **thirty** (**30**) days thereafter, such cancellation shall be effective; except in event of non payment of premium, only **ten** (**10**) days notice in writing to the First Named Assured is required. Such notice sent to the First Named Assured in the care of the broker or agent who negotiated this policy shall have the same effect as if sent directly to the First Named Assured.

If cancellation is at the Assured's option, the Company will return a "short-rate return premium"; if cancellation is at the Company's option, pro rata unearned premium will be returned as soon as practicable.

VII. PARAMOUNT EXCLUSIONS: The following exclusions shall be paramount and shall override anything contained in this policy inconsistent therewith:

a. **Asbestos Exclusion**

In consideration of the premium charged, it is agreed that this policy shall not apply to any liability for bodily injury or property damage, including loss of use thereof, arising out of the manufacturing, processing, handling, distribution, sale, application, removal or use of asbestos, or asbestos related product(s).

b. **Directors and Officers Exclusion**

It is understood and agreed that coverage afforded by this policy shall not apply to any director and/or officer of the Assured by reason of any wrongful act committed in their capacity as a director and/or officer of the Assured.

It is further agreed that the term "wrongful act" shall be defined as, but not limited to, any breach of duty, neglect, error, misstatement, misleading statement, omission or other act actually done or attempted by a director and/or officer claimed against them solely by reason of their capacity as such.

c. **Employment-Related Practices Exclusion**

It is understood and agreed that this insurance shall not cover:

"Bodily Injury" arising out of any refusal to employ, termination of employment, coercion, demotion, evaluation, re-assignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, policies, acts or omissions or consequential "bodily injury" as a result of the above.

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In the event the **Assured** or the **Assured**'s Underlying Insurers elect not to appeal a judgment in excess of the Underlying Limit, the **Company** may elect to make such appeal at their cost and expense, and shall be liable for the taxable costs and disbursements and interest incidental thereto, but in no event shall the liability of the **Company** exceed the amount set forth in Insuring Agreement II for any one **occurrence** and in addition the cost and expense of such appeal plus the taxable costs and disbursements and interest incidental thereto.

Q. **INCLUSION OF ADDITIONAL ASSURED(S) AND/OR LOSS PAYEE(S)**
Wherever additional **Assureds** or loss payees are added to this policy it is specifically agreed:

1) Such additional **Assureds** or loss payees are included only with respect to such activities insured by this policy as would exist in the absence of the naming of additional **Assureds** or loss payees and coverage hereunder shall in no way be considered extended by the inclusion of additional **Assureds** or loss payees.

2) The inclusion of additional **Assureds** or loss payees in no way increases the limit of liability hereunder.

3) In the event of cancellation or change in policy coverage unless specifically endorsed in writing to the contrary hereon, no obligation is imposed on the **Company** to send notice of cancellation or change of coverage to an additional **Assured** or loss payee and notice to the original Named **Assured** shall discharge all obligations of the **Company** hereunder. The **Company** shall not be required to notify additional Named **Assured** or loss payees of any cancellation received from the original **Assured** hereon.

R. **SPECIAL CONDITIONS APPLICABLE TO OCCUPATIONAL DISEASE**
With respect to **bodily injury** by occupational disease sustained by any **employee** of the **Assured**, this policy is subject to the same warranties, terms and conditions (except as regards the premium, the amounts and limits of liability, the renewal agreement, if any and the Asbestos and Health Hazards exclusions contained elsewhere herein) as are contained in or as may be added to the underlying insurance prior to the happening of an **occurrence** for which claim is made hereunder.

S. **FINANCIAL RESPONSIBILITY**
This insurance does not constitute evidence of financial responsibility under the Oil Pollution Act of 1990 or any similar federal, state, or local law and it is a condition of this insurance that it shall not be submitted to the United States Coast Guard or any other federal, state, or local agency as evidence of financial responsibility. The **Company** does not consent to be a guarantor.

T. **CANCELLATION**
This policy may be canceled by the First Named **Assured** by mailing to the **Company** written notice when thereafter such cancellation shall be effective. This policy may be canceled by the **Company** by mailing to the First Named **Assured** at his last known address written notice stating when, not less than **thirty (30) days** thereafter, such cancellation shall be effective; except in event of non payment of premium, only ten (10) days notice in writing to the First Named **Assured** is required. Such notice sent to the First Named **Assured** in the care of the broker or agent who negotiated this policy shall have the same effect as if sent directly to the First Named **Assured**.

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If cancellation is at the **Assured's** option, the **Company** will return a **short-rate return premium**; if cancellation is at the **Company's** option, pro rata unearned premium will be returned as soon as practicable.

VI. DEFINITIONS

Advertising injury means injury arising out of one or more of the following offenses:

(A) Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

(B) Oral or written publication of material that violates a person's right of privacy;

(C) Misappropriation of advertising ideas or style of doing business; or

(D) Infringement of copyright, title, trade dress or slogan in the **Assured**'s advertising.

Aircraft shall mean any heavier than air or lighter than air **aircraft** designed to transport persons or property

Assured, wherever used in this policy, includes not only the Named **Assured** but also:

(A) any executive officer, director, partner, stockholder or **employee** of the Named **Assured**, while acting in his capacity as such;

(B) with respect to any **automobile** owned by the Named **Assured** or hired for use in behalf of the Named **Assured** or to any **aircraft** owned by the Named **Assured** or hired for use in behalf of the Named **Assured**, any person while using such **automobile** or **aircraft** and any person or organization legally responsible for the use thereof, provided the actual use of the **automobile** or **aircraft** is with the permission of the Named **Assured**. The insurance extended by this sub-division (c), with respect to any person or organization other that the Named **Assured**, shall not apply:

1) to any person or organization, or to any agent or **employee** thereof operating an **automobile** repair shop, public garage, sales agency, service station, or public parking place, with respect to any **occurrence** arising out of the operation thereof;

2) to any manufacturer of **aircraft**, engines, or aviation accessories, or any aviation sales or service or repair organization or airport or hangar operator or their respective **Employees** or agents, with respect to any **occurrence** arising out of the operation thereof;

with respect to any hired **automobile** or **aircraft**, to the owner thereof or any **employee** of such owner.

(C) any person, organization, trustee or estate to whom the Named Assured is obligated by virtue of a written contract or agreement to provide insurance such as is afforded by this policy, shall be an Additional Assured hereunder, but only with respect to operations conducted by or on behalf of the Named Assured and provided always that the ALL of following terms and conditions shall apply:

1) The insurance afforded to such Additional Assured only applies to the extent permitted by law;

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BLANKET WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 10/01/2023 forms a part of Policy No. WC 065-43-7345

Issued to POWER ENGINEERING CONSTRUCTION CO.

By THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA

We have a right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against any person or organization with whom you have a written contract that requires you to obtain this agreement from us, as regards any work you perform for such person or organization.

The additional premium for this endorsement shall be 2.00 % of the total estimated workers compensation premium for this policy.

WC 04 03 61
(Ed. 11/90)

Countersigned by _

Authorized Representative