

ADDENDUM NO. 1

March 23, 2023

**RE: Breaux Lane Water Line
Guy Water Department
Guy, Arkansas**

**FROM: GarNat Engineering, LLC
3825 Mt Carmel Road
Bryant, Arkansas 72022**

TO: Prospective Bidders

This Addendum forms a part of the Contract Documents and modifies the original Bidding Documents dated **January, 2023** as noted below. Acknowledge receipt of the Addendum in the space provided on the Bid Form. Failure to do so may subject the Bidder to disqualification.

This Addendum consists of one (1) page and one (1) attachment consisting of eleven (11) pages.

GENERAL

Acknowledge receipt of this addendum by signing in the space provided below and returning this page to the Engineer by e-mail to garnatengineering@gmail.com.

Signature

Company Name

CHANGES TO BIDDING REQUIREMENTS:

- A. Section 00200 – Information Available to Bidders.
 - 1. Insert this section after Section 00100 – Information for Bidders.

END OF ADDENDUM

INFORMATION AVAILABLE TO BIDDERS

The following documents are included in this section:

1. Arkansas County American Rescue Plan Act – Funded Contract.

END OF SECTION

**ARKANSAS COUNTY WATER / SEWER PROJECT
RESCUE PLAN FUNDING ADDENDUM**

This addendum is intended to supplement the terms of a contract between the Guy Water Department, Guy, Arkansas (“Owner”), a public water authority of the State of Arkansas, and _____ (“Contractor”), a Corporation organized under the laws of the State of Arkansas, entered on _____ for the purpose of performing work that qualifies for funding under the American Rescue Plan Act of 2021 (“Rescue Plan”).¹ In this addendum, the term “Party” may be used to refer to either Owner or Contractor and the term “Parties” may be used to both Owner and Contractor.

1. Required Information.

A. Project Name: Breaux Lane Water Line

B. Contract Number: _____

C. Legal Name of Contractor: _____

Note: Must match name of Contractor in DUNS/Unique Entity Identifier.

D. Address: _____

E. Point of Contact (POC): _____

F. POC Email: _____

G. POC phone number: _____

H. State Contractor Licensing Number: _____

I. System of Award Management (SAM) #: _____

J. DUNS/UEIN #: _____

K. NPDES Permit Number (if applicable)²: Not Applicable

L. PWS ID Number (if applicable)³: Not Applicable

M. Projected construction start date (month/year): _____

N. Projected completion date (month/year): _____

O. Prioritizing local hires (for projects > \$10M): NO

P. Does Project include a Community Benefit Agreement (for projects > \$10M)? NO

If YES, provide a description of the agreement: _____

2. Remedy for breach or violation of contract by Contractor. The requirements of this paragraph 2 shall only apply if the Contract exceeds \$250,000. Further, to the extent that a right or obligation in this

¹ Public Law 117-2.

² Only include the National Pollutant Discharge Elimination System (NPDES) Permit Number for projects aligned with the Clean Water State Revolving Fund.

³ Only include the Public Water System (PWS) ID Number for projects aligned with the Drinking Water State Revolving Fund.

paragraph 2 conflicts with a right or obligation in the Contract, the right or obligation in the Contract shall prevail.

The City shall provide written notice to Contractor of any breach or violation of the Contract describing with particularity the contract provision that has been breached or violated. Upon receipt of a notice of breach or violation from the City, Contractor shall within ten days: (i) contest that such breach or violation has occurred; or (ii) cure such breach or violation to the satisfaction of City. If Contractor contests that the breach or violation has occurred within ten days, the Parties will follow the dispute resolution process described in paragraph 26 of the contract. If Contractor fails to contest that the breach or violation has occurred or cure the same to the satisfaction of the City within ten days, City may terminate this Contract immediately, in addition to every other remedy that the City may have at law or equity.

3. Termination. The requirements of this paragraph 3 shall only apply if the Contract exceeds \$10,000. Further, to the extent that a right or obligation in this paragraph 3 conflicts with a right or obligation in the Contract, the right or obligation in the Contract shall prevail.

A. Automatic Termination. This Contract will automatically terminate if Rescue Plan funding for the Contract is disapproved, discontinued, or disallowed for any reason. City will promptly provide notice of automatic termination to Contractor. Automatic termination will be treated as a termination for convenience under paragraph 3.C below.

B. Termination for cause. This Contract may be terminated by either Party for failure to comply with the terms herein. Except as described in paragraph 2 above, termination for cause procedures shall follow the process described in paragraph 26.

C. Termination for convenience. This Contract may be terminated by City for convenience upon written notice to Contractor. Upon delivery of termination notice, the Parties shall have no further liability to each other, provided that (i) City shall timely pay Contractor for unpaid work completed prior to the delivery of notice of termination; (ii) City shall timely reimburse Contractor for unreimbursed costs incurred for work that is not yet complete; (iii) City shall pay Contractor for costs of demobilization and calculation of costs; and (iv) City shall pay Contractor a termination fee equal to five percent (5%) of the difference between the Contract amount and all amounts paid by City for work performed pursuant to the Contract as representative of lost profits.⁴ Upon receipt of termination notice, Contractor shall make reasonable effort to mitigate City's costs of termination and calculate amounts owed by City. Without regard to termination, all material and supplies purchased for City under the Contract shall be and remain property of the City.

4. Equal Employment Opportunity.⁵ During the performance of the Contract, Contractor:

A. Will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

⁴Termination fee = .05 x (total Contract amount – payments made or owed by City under paragraph 3.C(i)-(iii))

⁵41 CFR § 60-1.4(b)

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

B. Will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

C. Will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

D. Will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. Will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. Will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

G. Acknowledges that in the event of the Contractor's noncompliance with the nondiscrimination clauses of the Contract, as amended, or with any of the said rules, regulations, or orders, the Contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

H. Will include the requirements and acknowledgements this paragraph 4 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the

Contractor may request the United States to enter into such litigation to protect the interests of the United States.

I. Will be bound by the equal opportunity requirements found in this paragraph 4 with respect to its own employment practices when it participates in federally assisted construction work.

J. Will assist and cooperate actively with the City and the Secretary of Labor in obtaining the compliance of subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the City and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

K. Will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

5. Davis-Bacon Act.⁶ Per guidance of the US Treasury Department, Davis-Bacon Act requirements do not apply to projects funded solely by the Rescue Plan. Nevertheless, for projects over \$10,000,000, contractors must provide *either* certification under the Davis-Bacon Act *or* a project employment impact report. Thus, if the Contract exceeds \$10,000,000, the Contractor shall comply with either paragraph A or paragraph B of below.

A. *Davis Bacon Certification.* During the performance of the Contract, the Contractor:

(1) Shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the Contractor and the laborers and mechanics.

(2) Will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work.

(3) Will not induce, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

(4) Acknowledges that the City may withhold from the Contractor so much of accrued payments as the City considers necessary to pay to laborers and mechanics employed by the Contractor or any subcontractor on the work the difference between the rates of wages required by the Contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the Contractor or subcontractors or their agents.

⁶40 U.S.C. § 3141-3148

(5) Acknowledges that if the City finds that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by the Contract has been or is being paid a rate of wages less than the rate of wages required by the Contract to be paid, the City or Federal Government by written notice to the Contractor may terminate the Contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The City or Federal Government may have the work completed, by contract or otherwise, and the Contractor and the Contractor's sureties shall be liable for any excess costs of completion.

(6) Will include the requirements and acknowledgements of this paragraph 5.A in every subcontract.

B. *Project employment and local impact report.* During the performance of the Contract, the Contractor shall submit a project employment and local impact report detailing:

- (1) The number of employees of contractors and sub-contractors working on the project;
- (2) The number of employees on the project hired directly and hired through a third party;
- (3) The wages and benefits of workers on the project by classification; and
- (4) Whether those wages are at rates less than those prevailing.

6. Contract Work Hours and Safety Standards Act.⁷ The requirements of this paragraph 6 shall only apply if the Contract exceeds \$100,000. During the performance of the Contract, the Contractor:

A. Will compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

B. Will not require any laborer or mechanic to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

C. The requirements of this paragraph 6 shall not apply to contracts for materials only.

7. Collective Bargaining. The requirements of this paragraph 7 shall only apply if the Contract exceeds \$10,000,000. Contractor shall *either*:

A. Provide a certification that the Contract will utilize a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act⁸; or

B. Provide a project workforce continuity plan, detailing:

- How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;

⁷ 40 USC 3701-3708

⁸ 29 USC 158(f)

- How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and
- How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; and
- Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market.

8. Rights to Inventions Made Under a Contract.⁹ The Contractor shall comply with the provisions of 37 C.F.R. Part 401 regarding any invention or discovery (i) conceived or first actually reduced to practice in the performance of work under this Contract; and (ii) which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act found at 7 USC § 2321. Contractors shall make required disclosures, make timely elections, and take such actions as are required by federal law regarding inventions described in this paragraph 6. The provisions of this paragraph 6 shall not apply to a contract made for educational purposes.

9. Clean Air Act and the Federal Water Pollution Control Act.¹⁰ The requirements of this paragraph 9 shall only apply if the Contract exceeds \$150,000. The Contractor shall, in the performance of the Contract, comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act as amended. Contractor acknowledges that violations of this paragraph must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

10. Debarment and Suspension.¹¹ Contractor hereby warrants and affirms that Contractor is not listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM) or such successor system of identification that may be adopted for identification of parties in federal contracts. Contractor shall not contract with a contractor listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM) to perform any part of this Contract.

11. Byrd Anti-Lobbying Amendment.¹² The requirements of this paragraph 11 shall only apply if the Contract exceeds \$100,000. Contractor hereby warrants and affirms that Contractor will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Contractor will include the requirements of this paragraph in the contract of any subcontractor performing more than \$100,000 of work.

12. Procurement of recovered materials.¹³ Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA)

⁹ 37 C.F.R. § 401

¹⁰ 42 U.S.C. § 7401-7671 and 33 U.S.C. § 1251-1387, respectively.

¹¹ See EO 12549 and 12889.

¹² 31 U.S.C. 1352

¹³ 2 C.F.R. § 200.323

at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

13. Prohibition on certain telecommunications and video surveillance services or equipment.¹⁴ As provided by Public Law 115-232, section 889, Contractor shall not use telecommunications services or equipment from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, or any subsidiary or affiliate of those entities.

14. Domestic preferences for procurement.¹⁵ Contractor shall, to the greatest extent practicable, provide goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this paragraph:

A. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

B. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

15. Uniform Relocation Assistance and Real Property Acquisition Act of 1970.¹⁶ Contractor shall identify any real property to be acquired under the Contract that will cause the displacement of individuals, families, businesses or farm operations.

16. Civil Rights.¹⁷ Contractor acknowledges and agrees to comply with, and to require any contractors, subcontractors, successors, transferees, and assignees to comply with the following:

A. Contractor ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.

B. Contractor acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Contractor understands that denying a person access to its programs, services, and activities because of LEP is a form

¹⁴ 2 C.F.R. § 200.216

¹⁵ 2 C.F.R. § 200.322

¹⁶ 42 U.S.C. 4601 – 4655.

¹⁷ 42 U.S.C. § 2000d et seq.

of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Contractor shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Contractor's programs, services, and activities.

C. Contractor agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

D. Contractor acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Contractor and Contractor's successors, transferees, and assignees for the period in which such assistance is provided.

E. Contractor acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances A -D above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the City, contractors, subcontractors, successors, transferees, and assignees:

"The contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement."

17. Fair Housing. In performance of the Contract, Contractor shall comply with the Fair Housing Act, Title VIII of the Civil Rights Act of 1968¹⁸, which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

18. Age Discrimination. In performance of the Contract, Contractor shall comply with the Age Discrimination Act of 1975¹⁹, as amended, and Treasury's implementing regulations²⁰, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.

¹⁸ 42 U.S.C. §§ 3601 et seq.

¹⁹ 42 U.S.C. §§ 6101 et seq.

²⁰ 31 C.F.R. Part 23

19. Americans with Disabilities. In performance of the Contract, Contractor shall comply with Title II of the Americans with Disabilities Act of 1990²¹, as amended, which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

20. False Statements. Contractor understands that making false statements or claims in connection with this Contract may constitute a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

21. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), City encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

22. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), City encourages Contractor to adopt and enforce policies that ban text messaging while driving, and establish workplace safety policies to decrease accidents caused by distracted drivers.

23. Relationship of Parties. The Parties are independent, and neither party is the agent, joint venturer, partner, or employer of the other. Any consultant services rendered pursuant to this Contract by Contractor shall be as an independent contractor and not as an agent or employee of City, who shall not withhold taxes of any kind nor make any deductions for the compensation stated herein.

24. Disclosure of Information. Contractor shall not disclose any confidential or personally identifiable information (PII) acquired by Contractor during the course of the Contract without the prior written consent of City, either during the term of the Contract, either during the term of the Contract or in the event of termination of the Contract for any reasons whatsoever. Contractor agrees to abide by applicable federal regulations regarding confidential information and research standards, as appropriate, for federally supported projects. Contractor shall take reasonable efforts to safeguard against the disclosure of PII and shall upon termination of the Contract destroy all PII obtained.

25. Copyright/intellectual Property. All materials, inventions, or deliverables produced as a result of this contract will constitute "work made for hire," and City and Contractor will possess shared copyright, title, and interest in all such materials. As a general principle, subject to the rights of the federal government and with respect to any subject, invention, material, or deliverable in which City and/or Contractor retains title resulting from this Contract, the federal government shall have a nonexclusive, nontransferable, irrevocable paid-up license to practice or have practiced for or on behalf of the United States the subject invention, material, or deliverable throughout the world.

26. Dispute Resolution. The requirements of this paragraph 26 shall only apply if the Contract exceeds \$10,000. Further, to the extent that a right or obligation in this paragraph 26 conflicts with a right or obligation in the Contract, the right or obligation in the Contract shall prevail.

The Parties agree to use good-faith efforts to resolve disputes that may arise from this Contract to avoid the expense of litigation. A Party may initiate dispute resolution by providing written notice to the other Party that a dispute exists and describing in particular the nature of the dispute. Either Party may, by

²¹ 42 U.S.C. §§ 12101 et seq.

written notice to the other Party, request a meeting to initiate negotiations to be held within five (5) Business Days of the other Party's receipt of such request, at a mutually agreed time and place. If the matter is not resolved within fifteen (15) days of their first meeting, either Party may, by written notice to the other Party, refer the matter to mediation.

If the Parties are unable to resolve a disputed issue through negotiation, then the Parties shall pursue non-binding mediation. The Parties agree, in good faith, to commit the resources necessary to mediate the matter in accordance with procedures to be established by the mediator. The mediator shall be chosen by agreement of the Parties and the expense shared equally. Any mediator selected shall have recognized expertise and not less than ten (10) years of experience in the subject matter of the dispute and shall be neutral and have no prior connection with or financial, or other interests in or against, either Party. Unless otherwise agreed, the mediation will be scheduled for a date not later than thirty (30) days after the selection of the mediator. The Parties agree to participate in the non-binding mediation in good faith and to share the costs of the mediation, including the mediator's fee, equally, but such shared costs shall not include each Party's own attorneys' fees and costs, which shall be borne solely by such Party.

If a Party refuses to negotiate or mediate, or a dispute remains unresolved for more than ninety (90) days after initial notification, the Party that initiated the dispute resolution process may pursue all remedies available to it at law or in equity and may immediately terminate the Contract without further liability to the other Party.

27. Other applicable requirements. Contractor acknowledges that payments for this Contract are being made, in whole or part, with federal Rescue Plan funding administered by City. Rescue Plan funding is subject to regulations and guidance issued by the Department of Treasury that may updated periodically. Contractor will monitor and abide by Treasury regulations and guidance during the term of the Contract applicable to Rescue Plan funding and all other applicable federal statutes, regulations, and executive orders, including without limitation federal environmental laws and regulations.

28. Record Retention. Contractor shall retain all records pertinent to Contract for: (i) five years after the construction has closed out and final payment made, or (ii) five years after the resolution of any litigation or audit finding, whichever is longer.