

accepts the Completion Stage Price, or an accord is reached through negotiations, the parties shall prepare and enter into a Change Order or special amendment to the Contract, memorializing the acceptance of such Completion Stage Price, as modified by any negotiations, and establishing an adjusted Contract Price or Guaranteed Maximum Price based upon such Completion Stage Price.

If Owner does not accept the proposed Completion Stage Price, and negotiations (if any) are not successful, then the Contract shall terminate for convenience. Under such a termination for convenience,

1. Design-Builder shall be entitled to full payment for all Preliminary Stage Work;
  2. Owner shall be entitled to use of the Preliminary Technical Documents only if Owner pays a supplemental termination fee of \$0.00; and
  3. Owner shall assume and discharge all remaining payment obligations for any equipment or materials that Design-Builder has ordered or purchased for the Project pursuant to express authorization from Owner, and Design-Builder shall assign to Owner all rights and interests in any such equipment and materials.
- E. Owner's Completion Contingency. The Contract Price includes the contingency as depicted in the Completion Stage Price for use by Owner at its sole discretion, under Owner's full control, for purposes of paying for the Completion Stage Work: After Owner's acceptance of the Completion Stage Price, or an accord reached through negotiations, and entry into a Change Order or special amendment to the Contract, memorializing the acceptance of such Completion Stage Price, as modified by any negotiations, and establishing an adjusted Contract Price or Guaranteed Maximum Price based upon such Completion Stage Price, or after any termination of the Contract because an accord is not reached, any remainder of the Owner's Completion Contingency shall be returned to Owner by Change Order or otherwise.

#### 3.04 *Changes in Contract Price Based on Cost of the Work*

- A. If the price of Design Professional Services covered by a Change Order or an adjustment in the Contract Price is determined on the basis of Cost of the Work, then for such Design Professional Services (exclusive of reimbursable expenses, if any) the Engineer, Project Design Professional, or other design entity performing the Design Professional Services (regardless of tier) may invoice no more than Billing Rates included in Exhibit C. The Design Builder shall provide the billing rates that are applicable to the persons assigned to the Project within 14 days of Award.
- B. If the value of Work covered by a Change Order or an adjustment in the Contract Price is determined on the basis of Cost of the Work, and involves Work performed under Construction Subcontracts or Design Agreements, the allowable mark-ups on lower tier invoices shall be limited as stated in Paragraph 11.05.D.2.c and d of the General Conditions.

### **ARTICLE 4 – PAYMENT PROCEDURES**

#### 4.01 *Submittal and Processing of Payments*

- A. Design-Builder shall submit Applications for Payment for processing by Owner in accordance with Article 14 of the General Conditions.