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SECTION 000101  
Southgate Community Schools  
Bid Release No. 2  
PROJECT MANUAL COVER  
April 6, 2016

# Southgate Community Schools

Bid Package #2  
Secured Entries, Mechanical and Electrical Renovations

Project Manual & Bid Information  
Clark Construction Company



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PROJECT MANUAL  
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Southgate Community Schools- Bid Release No. 2

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SECTION 001100  
ADVERTISEMENT / INVITATION FOR BIDS

PROJECT: Southgate Community Schools 2015 Bond Program  
Phase 1 - Summer 2016 Projects

CLARK PROJECT NO.: 2719

BID RELEASE NO.: 2

DESCRIPTION: Secured Entries at Elementary Schools; Mechanical and  
Electrical Renovations

OWNER: Southgate Community Schools  
14600 Dix Toledo Road  
Southgate, MI 48195

ARCHITECT: TMP Architecture, Inc.  
1191 W. Square Lake Rd.  
Bloomfield, MI 48302

CONSTRUCTION MANAGER: Clark Construction Company  
29110 Inkster Rd., Suite 150  
Southfield, MI 48075

PROJECT MANAGER: Jamie Stottlemeyer  
TELEPHONE: (517) 331-2726  
E-MAIL: [jstottlemeyer@clarkcc.com](mailto:jstottlemeyer@clarkcc.com)

**1. PRE-BID CONFERENCE**

- 1.1. A pre-Bid meeting and review of the existing project site will be held on Thursday, April 14, 2016; at 9:00 a.m. starting at:

Shelters Elementary  
12600 Fordline St.  
Southgate, MI 48195

**Bidders will have an opportunity to visit all sites.**

**2. BID DUE DATE/LOCATION/REQUIREMENTS**

- 2.1. Lump sum sealed Bids will be received at the office of:

Southgate Community Schools  
**Located inside the Norma J. Wurmlinger Municipal Building (City Hall) 2<sup>nd</sup> Floor**  
14400 Dix Toledo Road  
Southgate, MI 48195  
Attention: Theresa McLachlan, Director of Business & Finance

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ADVERTISEMENT / INVITATION FOR BIDS

- 2.2. **Bids must be received not later than 2:00 P.M., Thursday, April 21, 2016 (DUE DATE).**
- 2.3. The Board of Education will not consider or accept a Bid received by the Board after the Due Date for receipt of Bids.
- 2.4. No oral, fax or emailed Bids shall be submitted.
- 2.5. All Bidders shall provide a familial disclosure in compliance with MCL 380.1267 and attach this information to the Bid. The Bid shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or any employee of the Bidder and any member of the Board of Education of the School District, or the Superintendent of the school district. The Board of Education of the School District will not consider a Bid that does not include this sworn and notarized statement.
- 2.6. Each Bid must be accompanied by a sworn and notarized statement certifying that the Bidder is not an "Iran linked business" within the meaning of the Iran Economic Sanctions Act. The Board of Education of the School District will not consider or accept a Bid that does not include this sworn and notarized statement.
- 2.7. Southgate Schools' Board of Education reserves the right to accept or reject any and all Bids, either in whole or in part, to waive any informalities or irregularities therein, or to award the contract to other than the Bidder(s) submitting the best financial Bid (low Bidder), in its sole and absolute discretion.
- 2.8. Bids will be opened publicly and read aloud at **2:10 PM, Thursday, April 21**, in the Southgate City Council Chambers located on the 1<sup>st</sup> floor of the Norma J. Wurmlinger Municipal Building, 14400 Dix Toledo Road, Southgate, MI 48195.
- 2.9. No immediate decision will be rendered.

**3. BID DOCUMENT AVAILABILITY/DEPOSIT**

- 3.1. Bid Documents, Drawings and Specifications will be available on or after March 25, 2016 at the following location(s):

<https://clarkcc.sharefile.com/i/i54d667720c341de8>

- 3.2. Documents will also be made available for review at the following locations:

- Builder's Exchange – Lansing
- Construction Association of Michigan (CAM)

- 3.3. Bidder is responsible for the entire cost of reproduction.

**4. BID PROPOSAL REQUIREMENTS**

- 4.1. All questions during the Bidding period shall be referred to Clark Construction Company via email to:

CONTACT:	Jamie Stottlemeyer
TELEPHONE:	(517) 331-2726
EMAIL:	<a href="mailto:jstottlemeyer@clarkcc.com">jstottlemeyer@clarkcc.com</a>

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SECTION 001100  
ADVERTISEMENT / INVITATION FOR BIDS

- 4.2. Bidders are required to be pre-qualified by Clark Construction Company **prior to award of Contract** per qualifications form in “Certificates and Other Forms”.

5. **BID CATEGORIES**

**06A** – Secured Entries by General Trades  
**23A** – Mechanical  
**26A** – Electrical

END OF SECTION

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SECTION 002113  
INSTRUCTIONS TO BIDDERS

**1. DEFINITIONS:**

- 1.1. All definitions set forth in the General and Supplementary Conditions of the Contract for Construction are applicable to these Instructions to Bidders.
- 1.2. **Bid documents:** include the contract, the General and Supplemental Conditions, the Advertisement/Invitation for Bids, the Project Manual (Specifications) and all Drawings issued for the purpose of preparing a bid proposal.
- 1.3. **Bid Release:** a set of Bid Documents.
- 1.4. **Bid Category:** areas of Work performed by a Trade Contractor and its Subcontractors.
- 1.5. **Addenda:** written or graphic instruments issued prior to the execution of the Contract which modify or interpret the Bidding Documents, including Drawings and Specifications, by additions, deletions, clarifications or corrections.
- 1.6. **Bid:** means a proposal prepared and submitted as required herein.
- 1.7. **Trade Contractor:** shall refer to the entity contracted to perform the Work of one or more bid categories whether referred to in the Contract Documents as Contractor, Subcontractor or Trade Contractor.

**2. BIDDER'S REPRESENTATION**

- 2.1. Each Bidder, by submitting a bid, represents that the Bidder has read and understands the Bidding Documents, has visited the site and is familiar with the local conditions under which the Work is to be performed and has made his own review therefore of the facilities and difficulties attending the performance and completion of the Work.

**3. BIDDING PROCEDURES**

- 3.1. Combined bids of two or more bid categories may be submitted.
- 3.2. All bids must be submitted on the unaltered Bid Proposal Forms provided as part of the Bid Documents and in accordance with these Instructions to Bidders.
- 3.3. Each Bidder shall ascertain prior to submitting a bid that he has received all Addenda issued and shall acknowledge receipt on the Bid Proposal Form.
- 3.4. All bids must be signed as follows:
  - A. The Company represents and warrants that the person signing the proposal has the authority to act on behalf of the Company and to bind the Company and all who may claim through it to the terms and conditions of this Agreement. Employee represents and warrants that he has the capacity to act on his own behalf and on behalf of all who might claim through him to bind them to the terms and conditions of this Agreement.
- 3.5. Bids shall be submitted in an opaque, sealed envelope. Facsimile bids will not be accepted.
- 3.6. A bid shall be invalid if it is not delivered to the location indicated in the Advertisement/Invitation for Bids on or before the required bid due date and time.

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SECTION 002113  
INSTRUCTIONS TO BIDDERS

- 3.7. No responsibility shall attach to the Construction Manager, the Owner, or representatives of either, for premature opening of any proposal, which is not properly addressed, delivered and identified.
- 3.8. Negligence in preparation, improper preparation, error in and/or omissions from the bid shall not relieve the Bidder from fulfillment of any and all applicable obligations and requirements of the contract documents.
- 3.9. The Owner, Architect/Engineer or Construction Manager, in making copies of the Bidding Documents available, do so only for the purpose of obtaining bids on the work and do not confer a license or grant for any other use.
- 3.10. All bids submitted shall be for the specified base scope of Work with no exceptions. Exceptions in the base bid may be considered as basis for rejection.
- 3.11. Voluntary alternates will be considered at the Architect and Owner's discretion.
- 3.12. Bidder shall not modify, withdraw or cancel a bid or any part thereof for ninety (90) days after the time designated for the receipt of bids.

**4. EXAMINATION OF BIDDING DOCUMENTS**

- 4.1. Each Bidder shall examine the Bidding Documents carefully and, not later than seven (7) days prior to the date for receipt of bids, shall make written request to Clark Construction Company for interpretation or correction of any ambiguity, inconsistency or error therein discovered. Only written interpretation or correction by Addendum shall be binding.
- 4.2. Each Bidder shall submit a bid proposal based on the entire set of Bid Documents. Bidders shall review all Drawings and Specifications to identify work related to its respective bid category. Complete sets of Drawings are available for review at the locations indicated in the Advertisement/Invitation for Bids or may be obtained from Clark Construction Company.
- 4.3. Failure to review the complete set of documents and to identify items reasonably interpreted to be in the scope of the Bid Category shall not relieve the Trade Contractor of its responsibility to perform the Work.
- 4.4. Any incidental item of material, labor or detail, required for proper execution and completion of the Work, omitted from the Contract Documents, but required by governing codes, local regulations, trade practices, operational functions, and quality workmanship, shall be provided as part of the contract Work at no additional cost, even though not specifically detailed or noted.
- 4.5. Trade Contractor shall not scale Drawings to obtain dimensions.



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SECTION 002113  
INSTRUCTIONS TO BIDDERS

**5. BIDDER'S EXAMINATION OF PREMISES**

- 5.1. The Bidder represents that it has carefully inspected the Project site and examined the Drawings and Specifications and other Contract Documents and is familiar with and has satisfied itself as to the nature, location and amount of the Work, the Bidder's access thereto and ability to perform the Work, local code requirements applicable to the Work and requirements of permits and inspections, safety and barricade requirements, the terms and conditions of any applicable project labor and collective bargaining agreements, as well as the quality, quantity and availability of labor, materials, equipment and facilities and other items required for the performance of the Work and the possible limiting physical and other conditions which may be encountered in the performance of the Work and assumes all risks therefrom. The Bidder has determined, by its own investigation and research, all the conditions affecting the Work to be performed and materials to be furnished and does not rely upon any representation by the Owner or Construction Manager in connection therewith. In performing the Work, Bidder accepts the condition of the Project site as-is and assumes the risks with regard to existing conditions at the Project site.
- 5.2. The Bidder shall take its own measurements and be responsible for the correctness of same.
- 5.3. The Bidder shall be held to have made such examinations of the premises and no allowances will be made on its behalf by reason of error or omission on its part.
- 5.4. Plans, diagrams and other descriptive information which depict existing conditions are provided for scope identification and scheduling purposes only. Quantities, elevations, measurements and locations shown may have been approximated and/or gathered from dated, incomplete original construction documents. This data should not be used for bidding purposes without field verification by the Bidder.
- 5.5. The Bidder's own Contract Document review and site inspection review of the work areas shall be relied upon to provide the Bidder information he may require to properly execute and complete the work. Questions must be submitted in writing to the Construction Manager at least seven (7) days before the date for receipt of bids to allow time for written Addenda to be issued.
- 5.6. Each Bidder shall examine the premises carefully and, not later than seven (7) days prior to the date for receipt of bids, shall make written request to Clark Construction Company for any additional information required. Only written interpretation or correction by Addendum shall be binding.

**6. SUBSTITUTIONS**

- 6.1. Each bid shall be based upon materials and equipment described in the Bidding Documents.
- 6.2. Material and equipment substitutions will not be considered unless written request has been submitted for approval at least fourteen (14) days prior to bid due date. Only approvals in a written Addendum shall be binding. Each substitution request shall include the following:
  - A. Complete description of the proposed substitution.
  - B. Information regarding specified material or equipment for which substitution is being submitted.

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SECTION 002113  
INSTRUCTIONS TO BIDDERS

- C. Drawings.
- D. Manufacturer's literature.
- E. Performance and test data.
- F. Effect on performance characteristics.
- G. Impact on the Work of other trades.
- H. Any other data or information necessary for a complete evaluation.

**7. OWNER/CONSTRUCTION MANAGER RIGHTS**

- 7.1. The district will determine and award to the responsible low bidder.
- 7.2. Bidder acknowledges the right of the Owner to reject any or all bids and to waive any informality or irregularity in any bid received. In addition, the Bidder recognizes the right of the Owner to reject a bid for any reason including but not limited to the following:
  - A. Bidder fails to furnish or submit data required in the Bidding Documents;
  - B. Bid is in any way incomplete or irregular;
  - C. Bidder's performance as a Trade Contractor was unsatisfactory under a prior contract for the construction, repair, modification, or demolition of a facility with the Owner, Construction Manager or Architect;
  - D. Known poor performance on prior contracts with parties other than the Construction Manager, Owner or Architect; or
  - E. Unsatisfactory financial condition.
- 7.3. The Owner may accept alternates which serve its own best interest. The Owner shall have the right to accept alternates in any order or combination and to determine the low Bidder on the basis of the sum of the base bid and bid alternates accepted.
- 7.4. Bidders to whom award of a contract is under consideration shall submit to the Construction Manager upon request, a properly executed Subcontractor Qualification Form (Refer to "Certificates and other Forms" section).

**8. EQUAL OPPORTUNITY EMPLOYMENT POLICIES**

- 8.1. The Bidder agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin or age. The Bidder shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, sex or national origin.

**9. BID SECURITY**

- 9.1. Each bid shall be accompanied by a bid security in an amount of not less than 5% of the total base bid sum, pledging that the Bidder will enter into a contract with the Construction

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SECTION 002113  
INSTRUCTIONS TO BIDDERS

Manager under the terms stated in the Bidding Documents. (Refer to “Performance and Payment Bond” section).

- 9.2. The Construction Manager shall have the right to retain the bid security of Bidders under consideration until either:
- A. the Contract has been executed and bonds have been furnished, or
  - B. the specified time has elapsed so that bids may be withdrawn, or
  - C. All bids have been rejected.
- 9.3. The amount of the bid security shall be forfeited to the Construction Manager upon failure of the successful Bidder to enter into a Contract within fifteen (15) days after acceptance of the proposal.

**10. PERFORMANCE AND LABOR AND MATERIAL PAYMENT BONDS**

Performance and Labor and Material Payment Bonds may be requested as a condition of the Contract. **Cost of said bonds shall not be included in the base bid.**

**11. PREVAILING WAGE**

- 11.1. All Trade Contractors shall comply with the Michigan Prevailing Wage Act.
- 11.2. Trade Contractors shall be responsible to comply with Prevailing Wage Rates as they may be revised by the State of Michigan during the course of the Work.
- 11.3. Trade Contractors shall provide evidence to the Construction Manager if requested of payment of Prevailing Wage in the form of a certified payroll or other form as may be required.
- 11.4. The Owner and Construction Manager shall at its option order an audit of the Trade Contractors’ record to confirm payment of Prevailing Wage. The Trade Contractor shall be responsible for payment of such audit in the event of any failure discovered to make full payment to any individual in accordance with Prevailing Wage requirements.

END OF SECTION

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SECTION 002413  
SCOPE OF WORK  
GENERAL NOTES

**1. GENERAL**

- 1.1. All Trade Contractors shall be bound to all requirements and conditions applicable to the Work of their respective area of Work of Division 00 – Procurement and Contracting Requirements and Division 01 – General Requirements, Drawings, Specifications and Addenda.
- 1.2. Scope of Work General Notes shall be applicable to all Trade Contractors. The Scope of Work of each Bid Category shall include the following items required for, caused by or resulting from its Work.

**2. GENERAL NOTES**

- 2.1. Coordinate and cooperate with all entities associated with the Project including the Owner, Architect, Independent Testing and Inspection agencies, local and other governmental authorities and other Trade Contractors. Cost incurred as a result of lack of coordination of Work, deliveries, access required by others, testing/inspection, schedule, penetrations, etc., shall be the responsibility of the Trade Contractor failing to notify others of action to be taken or other requirements.
- 2.2. Provide written Daily Reports to include the following minimum information:
  - A. Description of Work performed
  - B. Trade personnel classification and hours
  - C. Equipment used
  - D. Significant events/issues
  - E. Weather
  - F. Other items as requested
- 2.3. Commencement of Work subsequent to associated Work by other Trade Contractor shall indicate acceptance of the condition of the Work by other Trade Contractor and/or existing conditions.
- 2.4. Delivery and storage of materials and equipment shall be the responsibility of each Trade Contractor (Refer to “Temporary Facilities and Controls” section).
- 2.5. All means and methods, labor, material, tools, construction equipment and machinery necessary, including cranes, hoisting equipment, scaffolding, shoring and bracing, to complete the Work.
- 2.6. Perform all Work related to the Work of the Bid Category included in “Temporary Facilities and Controls” section.

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SECTION 002413  
SCOPE OF WORK  
GENERAL NOTES

- 2.7. The Trade Contractor shall obtain and pay for all permits and fees associated with its Work and provide evidence of same to Construction Manager.
- 2.8. Minimal benchmarks and control lines will be provided. Trade Contractor shall be responsible for all other engineering and layout required for the performance of its Work (Refer to "Field Engineering" section).
- 2.9. Barricades, traffic maintenance and control as required.
- 2.10. Confine operations at the site to areas permitted by the Construction Manager.
- 2.11. Protection and safekeeping of Trade Contractor's own materials and equipment stored on the premises.
- 2.12. Take care and protect as required to avoid damaging Work in place by other Trade Contractors. In the event of damage to Work in place, the Trade Contractor causing the damage will be responsible for cost of repair. In the event the responsible Trade Contractor cannot be identified, the cost of repair will be prorated on a man hour basis to those Trade Contractors reasonably considered to be in the area of the damage.
- 2.13. Protect all existing structures, equipment, trees, landscaping, etc., to remain.
- 2.14. Dust control to prevent nuisance and hazard.
- 2.15. Cleaning of street of mud and debris (Refer to "Temporary Facilities and Controls" section).
- 2.16. Daily clean-up shall include broom cleaning, dumpster cost and removal of identifiable debris and rubbish from site (Refer to "Temporary Facilities and Controls" section for specific construction cleaning and cleaning of Work in place).
- 2.17. Pumping water required to perform the Work.
- 2.18. Temporary utilities as needed to perform the Work (Refer to "Temporary Facilities and Controls" section for specific temporary utility information).
- 2.19. Cutting, coring, patching and penetrations of any structural, architectural, mechanical and electrical materials required to complete the Work unless noted otherwise (Refer to "Cutting and Patching" specification section for specific cutting and patching requirements).
- 2.20. Parking will be available on the project site
- 2.21. Use of tobacco products or alcohol will not be allowed on the project site.
- 2.22. Each Bidder shall be held to have visited the site of the proposed Work before submitting a Bid and to familiarize himself with all existing conditions affecting the

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SECTION 002413  
SCOPE OF WORK  
GENERAL NOTES

execution of the Work in this Project. No allowance or extra consideration on behalf of the Contractor will subsequently be made by reason of failure to observe the site conditions, or on behalf of any Subcontractor for the same reason.

- 2.23. The project manager and superintendent/foreman of each Contractor shall attend regular meetings as directed and set up by the Construction Manager.
- 2.24. No on site fuel storage tanks will be allowed.
- 2.25. Daily cleanup is required by all trades.
- 2.26. Sexual harassment of any of the Owner's personnel or construction personnel will not be allowed.
- 2.27. Contractors will provide for their employees any required specialized safety equipment such as safety belts, safety glasses or shields, hearing protection, etc. It will be the responsibility of each employee to use this equipment as conditions merit.
- 2.28. The Contractor shall not permit sale or use of alcoholic beverages, illegal drugs or controlled substance all as defined by the laws of the State where project is located on or about project site, nor shall Contractor allow any person under the influence of any of these substances to remain on premises.
- 2.29. Project shall be kept in a clean condition and orderly manner, clear of debris.
- 2.30. Notify Construction Manager of ALL accidents, no matter how minor. Contractors shall submit accident reports for ALL accidents using a written accident report form.

END OF SECTION

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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

**1. GENERAL**

- 1.1. Bid Category Specific Notes are applicable to a specific Bid Category. Notes within each Bid Category are provided to clarify the work to be performed under the respective Bid Category. Specific notes shall not be interpreted as a complete itemization of the work to be performed under the Bid Category. The Trade Contractor shall be responsible to perform all Work reasonably interpreted to be included in its scope of Work in accordance with the plans and specifications in addition to the Bid Category notes of clarification.
- 1.2. **Base Specifications** - Each Bid Category Scope of Work shall include all Work specified in or reasonably inferred from the Base Specifications sections listed within the Bid Category.
- 1.3. **Reference Specifications** - Each Bid Category Scope of Work shall include portions of the Work specified in or reasonably inferred from the Reference Specification sections listed within the Bid Category.

**2. BID CATEGORY SPECIFIC NOTES – See Bid Categories Below**

END OF SECTION

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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

**BID CATEGORY 06A – SECURED ENTRIES BY GENERAL TRADES**

GENERAL – The following shall not be interpreted as a complete itemization of the work to be performed under this Bid Category. This Bid Category Trade Contractor shall be responsible to perform all work reasonably interpreted to be included in its scope of work in accordance with the drawings and specifications in addition to these Bid Category notes of clarification.

BASE SPECIFICATION – (Include all Work specified or reasonably inferred)  
002413 – SCOPE OF WORK GENERAL NOTES – (Include all Work specified or reasonably inferred)

Division 01	General Requirements
024119	Selective Demolition
033000	Cast-In-Place Concrete
042000	Unit Masonry Assemblies
055000	Metal Fabrications
061000	Rough Carpentry
064023	Interior Architectural Woodwork
078413	Firestopping
079200	Joint Sealants
081113	Standard Steel Doors & Frames
081416	Flush Wood Doors
087100	Door Hardware
088000	Glazing
092900	Gypsum Wallboard Assemblies
095113	Acoustical Ceilings
096519	Resilient Tile Flooring
099100	Painting

REFERENCE SPECIFICATION – (Include portions of the Work specified as noted below or reasonably inferred)

Division 23 - Mechanical  
Division 26 - Electrical

**Include (Furnish and Install u.n.o):**

1. All work (included in Base Specifications) associated with the security vestibules at Allen Elementary, Fordline Elementary, Grogan Elementary and Shelters Elementary.
2. New casework, countertops, transaction counters and custom millwork including required blocking.



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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

3. Salvage, store and relocate existing base cabinets where shown.
4. Asher Alternative High School - Provide and install new doors, frames, thresholds, glass, glazing and hardware as shown in the Door & Frame Schedule (both interior and exterior). Prep existing doors and frames to receive new hardware as required.
5. Metal flashing and brake metal.
6. Supply and install new lay-in ceiling and tile in vestibules at Shelters Elementary and Grogan Elementary. All other existing ceilings are to be modified to accommodate the work of this bid category.
7. Supply and install all doors, windows, frames and hardware.
8. Grouting of hollow metal frames and masonry as required.
9. Coordinate demolition to make sure the buildings are secured and weather tight at the end of every day.
10. Provide patching and painting to adjacent surfaces that are damaged during demolition.
11. Dust control for the duration of the work of this bid category.
12. Metal studs, insulation and drywall.
13. Blocking, structural support and anchors required but not indicated in the documents.
14. Cleaning and preparation of surfaces as required prior to application of paint.
15. Sealants between dissimilar materials including door frames, window frames, etc. to provide a complete finished product.
16. Remove and replace door silencers, door hardware and other items as required for painting.
17. Protect fire rating labels from paint.
18. Protect adjacent surfaces not to be painted.
19. Coordinate layout with requirements of other Trades. Report layout discrepancies to Clark Construction Company in writing.
20. Fire stopping associated with the work of this bid category.
21. Install Lintels as required.
22. Masonry, including "toothing" as required where new masonry meets existing masonry walls. Salvage existing brick where possible to use for wall infills.
23. Grogan Elementary – New concrete stoop at relocated entrance door. Include removal of existing slab as required to accommodate new stoop. Tie back into existing sidewalk as shown. Install self-leveling grout in vestibule and coordinate finished elevation with relocated aluminum storefront framing assembly and new stoop.
24. Grogan Elementary – Supply and install new vinyl composite tile (VCT) flooring and resilient base in the secure entry vestibule.
25. Protect exposed floors from mortar and other damage. Clean floors upon completion of the Work or more frequently as required.
26. Temporary shoring and bracing as required.
27. Construction cores and final keying of all hardware furnished by this bid category.

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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

28. Final adjustments to hardware as directed by Clark Construction Company.
29. Glass and glazing, including fire rated glass.
30. Coordinate inspections with Clark Construction Company.
31. Remove door intercom systems, salvage and turn over to Owner for installation.
32. Modification of existing flooring and tile/VCT infill as required to accommodate new wall construction and door installations.
33. Frame out walls to accommodate new semi-recessed cabinet unit heaters (CUH's). Coordinate rough opening and location with mechanical contractor. Several mobilizations may be required to complete this work.
34. Stainless steel corner guards.
35. Patch and paint walls where Wiremold is to be removed. Reference electrical drawings for location(s).
36. Include a \$4,000 allowance for patching existing walls.

Health and Safety Special Requirements:

1. Provide a minimum of 20 pound U.L. rated multi-purpose (Type A, B, C) fire extinguishers on stands spaced throughout the building at all times spaced such that the travel distance to a fire extinguisher shall not exceed 100 feet. Fire extinguisher stand shall be "Fire-Safety Mate" of equal as manufactured by Gorla Corporation, (telephone 888.464.6742).

Exclude:

1. Mechanical demolition.
2. Electrical demolition.

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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

**BID CATEGORY 23A- Mechanical**

GENERAL – The following shall not be interpreted as a complete itemization of the work to be performed under this Bid Category. This Bid Category Trade Contractor shall be responsible to perform all work reasonably interpreted to be included in its scope of work in accordance with the drawings and specifications in addition to these Bid Category notes of clarification.

BASE SPECIFICATION – (Include all Work as specified or reasonably inferred)  
002413 – SCOPE OF WORK GENERAL NOTES – (Include all Work specified or reasonably inferred)

**Division 01    General Requirements**

200500	Mechanical General Requirements
200510	Basic Mechanical Materials and Methods
200513	Motors
200516	Pipe Flexible Connectors, Expansion Fittings and Loops
200519	Meters and Gages
200529	Hangers and Supports
200547	Mechanical Vibration Controls
200700	Mechanical Insulation
221116	Domestic Water Piping
221316	Sanitary Waste and Vent Piping
230500	Common Work Results for HVAC
230523	General Duty Valves for HVAC
230593	Testing, Adjusting, and Balancing
230933	Temperature Controls
231123	Fuel Gas Piping
232113	Hydronic Piping
232123	Hydronic Pumps
232500	HVAC Water Treatment
232510	Piping Systems Flushing and Chemical Cleaning
233113	Metal Ducts
233300	Duct Accessories
233713	Diffusers, Registers, and Grilles
235100	Breechings, Chimneys and Stacks
235216	Condensing Boilers
238120	Unitary Rooftop Air Conditioners
238126	Ductless Split-System Air-Conditioning Units
238240	Centrifugal Fan Cabinet Unit Heaters

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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

REFERENCE SPECIFICATION – (Include portions of the Work specified as noted below or reasonably inferred)

Division 26 - Electrical

Include (Furnish and Install u.n.o):

1. MEP Contractors are required to submit MEP Cost Breakdown as a start-up submittal for approval.
2. Coordinate design of system material and equipment routing with other Trade Contractors as required to avoid conflicts.
  - a. This Trade Contractor shall develop shop drawings equal to scale as that to be used by other Trade Contractors in which conflicts have potential to occur. Drawing scale shall be coordinated prior to start of shop drawings.
  - b. Shop drawings shall be extensively and thoroughly coordinated with each Trade Contractor with which conflicts have potential to occur to the extent required to eliminate conflicts prior to fabrication and installation.
  - c. Conflicts encountered during fabrication and installation which could have been foreseen through a more extensive coordination effort shall be corrected by this bid category.
  - d. All costs for modifications which are a result of conflicts with items noted in the Contract Documents shall be born by this bid category.
  - e. In the event of conflict with items indicated in shop drawings of other Trade Contractors and not in the Contract Documents, the cost shall be shared equally by the Trade Contractors involved.
3. Material bends and offsets in addition to those indicated in the documents associated with the Work of this bid category and required to avoid installation conflicts. Contract Documents shall not be interpreted to include all bends and offsets required to avoid conflicts.
4. Hangers, supports, unistrut or miscellaneous steel required for a complete installation.
5. Coordinate openings required to accommodate installation of equipment prior to enclosure of spaces by other Trades.
6. Furnish and install sleeves as needed and not indicated in the Documents.
7. Furnish and install access panels as required for this Work but not indicated in the documents. Confirm type of panel required with Clark Construction Company prior to ordering.

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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

8. HVAC Work as described in specification section "Temporary Facilities and Controls".
9. Mechanical insulation.
10. Roof curbs associated with the Work of this bid category.
11. Concrete housekeeping pads for mechanical equipment required and not indicated in the documents.
12. Support steel required for mechanical equipment and not indicated in the documents.
13. Motor starters for packaged equipment.
14. Coring as required to perform the Work of this bid category.
15. Fire stopping at penetrations through fire walls and smoke barriers.
16. Testing and balancing of system. Submit final test and balance reports in a timely manner as not to delay other project requirements.
17. Complete check, test and start up of mechanical systems. Provide written plan and documentation to Clark Construction Company of check, test and start of each component of the system.
18. Identification, labeling and tagging system equipment, piping, duct, etc.
19. Framed identification charts in mechanical rooms providing valve and major equipment information.
20. Paint touch-up of factory finished equipment.
21. Train Owner's representative(s) on proper start up, operation and maintenance of all mechanical systems. Provide video recording of training for Owner.
22. Obtain permits required to complete the Work of this bid category. Post at the jobsite prior to performing the Work.
23. Temperature controls including but not limited to raceways, wiring, complete commissioning and user training.
24. Gas piping.
25. Mechanical demolition indicated in the documents. Include cutting and capping of items to remain. Dispose of materials off site.
26. Electrical Work from electrical disconnects to equipment.
27. Pumps and associated variable frequency drives.
28. Participate in fire alarm testing process as it relates to the Work of this bid category.
29. Breeching, flues, stacks and chimneys for all fuel fired equipment.
30. Patching of spray on fireproofing material removed or disturbed as a result of the Work of this bid category.
31. Warranty and Guarantee start date shall be the project Substantial Completion date.
32. Perform complete flushing and testing of HVAC piping system.
33. Complete chemical treatment system.

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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

- 34. Coordinate removal and replacement of RTU's, so buildings remain weathertight.
- 35. Condensate drains and traps.
- 36. Remove and replace ceilings as necessary to complete the work of this bid category, including but not limited to all VUV isolation and control valve installation locations.

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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

**BID CATEGORY 26A-Electrical**

GENERAL – The following shall not be interpreted as a complete itemization of the work to be performed under this Bid Category. This Bid Category Trade Contractor shall be responsible to perform all work reasonably interpreted to be included in its scope of work in accordance with the drawings and specifications in addition to these Bid Category notes of clarification.

BASE SPECIFICATION – (Include all Work as specified or reasonably inferred)  
002413 – SCOPE OF WORK GENERAL NOTES – (Include all Work specified or reasonably inferred)

Division 01	General Requirements
260010	Electrical General Requirements
260500	Basic Electrical Materials and Methods
260519	Conductors and Cables
260526	Grounding and Bonding
260529	Hangers and Supports for Electrical Systems
260533	Raceways and Boxes
260553	Electrical Identification
260923	Lighting Control Devices
260999	Electrical Testing
262416	Panelboards
262726	Wiring Devices
262813	Fuses
262816	Enclosed Switches and Circuit Breakers
262913	Enclosed Controllers
265100	Interior Lighting
283100	Fire Alarm

REFERENCE SPECIFICATION – (Include portions of the Work specified as noted below)

Division 23 - Mechanical

Include (Furnish and Install u.n.o):

1. MEP Contractors are required to submit MEP Cost Breakdown as a start-up submittal for approval.
2. Coordinate design of system material and equipment routing with other Trade Contractors as required to avoid conflicts.

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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

- a. This Trade Contractor shall develop shop drawings equal to scale as that to be used by other Trade Contractors in which conflicts have potential to occur. Drawing scale shall be coordinated prior to start of shop drawings.
  - b. Shop drawings shall be extensively and thoroughly coordinated with each Trade Contractor with which conflicts have potential to occur to the extent required to eliminate conflicts prior to fabrication and installation.
  - c. Conflicts encountered during fabrication and installation which could have been foreseen through a more extensive coordination effort shall be corrected by this bid category.
  - d. All costs for modifications which are a result of conflicts with items noted in the Contract Documents shall be born by this bid category.
  - e. In the event of conflict with items indicated in shop drawings of other Trade Contractors and not in the Contract Documents, the cost shall be shared equally by the Trade Contractors involved.
3. Coordinate openings required to accommodate installation of equipment prior to enclosure of spaces by other Trades.
  4. Hangers, supports, unistrut or misc. steel required for a complete installation.
  5. Equipment support structures as required.
  6. Furnish and install access panels as required for this Work but not indicated in the documents. Confirm type of panel required with Clark Construction Company prior to ordering.
  7. Concrete housekeeping pads for electrical equipment required and not indicated in the documents.
  8. Fire stopping of penetrations associated with the Work of this bid category.
  9. Furnish and install sleeves as needed and not indicated in the Documents.
  10. Coring as required to perform the Work of this bid category.
  11. Perform final hook up of equipment furnished by mechanical trades. Coordinate rough in location with equipment supplier and Clark Construction Company.
  12. Electrical identification and labeling.
  13. Obtain permits required to complete the Work of this bid category. Post at the jobsite prior to performing the Work.
  14. Electrical Work as described in specification Section 015000 "Temporary Facilities and Controls".
  15. Patching of spray on fireproofing material removed or disturbed as a result of the Work of this bid category.
  16. Warranty and Guarantee start date shall be the project Substantial Completion date.
  17. Train Owner's representative(s) on proper start-up, operation and maintenance of all mechanical systems. Provide video recording of training for Owner.
  18. Supply and install smoke duct detectors. Coordinate with mechanical contractor.



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SECTION 002416  
SCOPE OF WORK  
BID CATEGORY SPECIFIC NOTES

19. Coordinate power and conduits for electric door strikes with General Trades Contractor. Connection of door strikes to fire alarm system is by this bid category.
20. Coordinate openings required to accommodate installation of equipment prior to enclosure of spaces by other trades.
21. Remove and replace ceilings as necessary to complete the work of this bid category.

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SECTION 003113  
PROJECT MILESTONE SCHEDULE

**1. GENERAL**

- 1.1. Milestone dates identified herein shall become binding under the Contract. The Bidder represents that it will provide sufficient labor, material, supervision, equipment and other necessary resources to achieve the milestone dates.

**2. WORK HOURS**

- 2.1. Project site standard work hours shall be 7:00 AM to 3:30 PM.
- 2.2. Trade Contractor shall notify and obtain authorization from the Construction Manager in the event Work is required to be performed outside of standard work hours.
- 2.3. For Work required outside of standard work hours which is the result of the Trade Contractors failure to perform the Work as scheduled during standard hours, the Trade Contractor shall reimburse the Construction Manager for the Construction Managers staff cost to be on site while such work is performed.

**3. SCHEDULE REQUIREMENTS**

- 3.1. Bidders shall review the milestone schedule for Work included in the construction documents and advise, at bid time, of any severe discrepancies identified.
- 3.2. Bids shall be based on overall time duration provided in the milestone schedule for all construction activities.
- 3.3. Trade Contractors will be required to submit monthly progress reports and updated schedules as directed by the Construction Manager.
- 3.4. The Construction Manager will endeavor to incorporate Trade Contractor input into the final project schedule. Under no circumstances will data be incorporated that causes delay to any milestone or to the overall project completion date.
- 3.5. Trade Contractor representatives shall attend Pull Planning Meetings as required and as described in Section 013119 Project Meetings.
- 3.6. The Trade Contractor shall review, check, approve and submit, in such sequence as to cause no delay in the Work or in the Work of the Owner or any separate Trade Contractor, all shop drawings, product data and samples required by the Contract Documents.
- 3.7. Trade Contractors failing to meet the Project schedule shall be required to submit a detailed recovery schedule within two (2) days of notification by the Construction Manager. Such recovery schedule shall contain sufficient detail to satisfy requirements of the Construction Manager and shall include overtime as necessary to accomplish recovery in the shortest possible duration.

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SECTION 003113  
PROJECT MILESTONE SCHEDULE

- 3.8. The Trade Contractor shall be responsible for all additional cost associated with a Project delay caused by the Trade Contractor. Project delay costs include but are not limited to: 1) Construction Manager personnel cost associated with additional scheduling and/or coordination time including phone calls, emails, meetings etc.; 2) overtime cost expended by other Trade Contractors and that of the failing Trade Contractor necessary to recover lost schedule time.
- 3.9. All schedule “float time” shall belong exclusively to the Construction Manager. Trade Contractor shall endeavor to improve upon the project schedule dates.

**4. MILESTONE SCHEDULE**

- 4.1. Individual Project Schedules will be developed at a later date. Each trade will be responsible to attend a full day planning session for each project to help establish a detailed schedule. Construction periods are as follows:

A.	Start Construction	6/20/16
B.	Complete Construction	8/19/16

END OF SECTION

SECTION 004126  
BID PROPOSAL FORM

BIDDER'S NAME: \_\_\_\_\_

PROJECT: Southgate Community Bond  
Phase 1 - Summer 2016 Projects

CLARK PROJECT NO.: 2719

BID RELEASE NO.: 2

OWNER: Southgate Community Schools

ARCHITECT: TMP Architecture

CONSTRUCTION MANAGER: Clark Construction Company  
29110 Inkster Road, Suite 150  
Southfield, MI 48034

ATTENTION: Jamie Stottlemeyer, Senior Project Manager  
TELEPHONE: (517) 331-2726  
E-MAIL: [jstottlemeyer@clarkcc.com](mailto:jstottlemeyer@clarkcc.com)

**1. PROPOSAL**

- 1.1. This offer has been prepared after our examination of the complete drawings and specifications, together with their related documents, and our examination of the conditions surrounding the construction of the proposed work including the availability of materials, equipment and labor. The undersigned submits the following offer to enter into a Contract with Clark Construction Company and agrees to furnish all labor, material, equipment and service to complete the Work in accordance with the Contract Documents for:

A. **Bid Category No.: Description:** \_\_\_\_\_

1. For the Lump Sum Base Bid of: (\$ \_\_\_\_\_)  
\_\_\_\_\_ Dollars

B. **Bid Category No.: Description:** \_\_\_\_\_

1. For the Lump Sum Base Bid of: (\$ \_\_\_\_\_)  
\_\_\_\_\_ Dollars

- 1.2. All appropriate sales taxes are included in the above Lump Sum Base Bid.

SECTION 004126  
BID PROPOSAL FORM

**2. COMBINED BIDS**

- 2.1. Combined bids of two (2) or more Bid Categories may be submitted. Separate bids for each Bid Category included in a combined bid are required.

A. **Bid Category Numbers:** \_\_\_\_\_

**Bid Category Descriptions:** \_\_\_\_\_

1. For the Lump Sum Base Bid of: (\$ \_\_\_\_\_)  
\_\_\_\_\_ Dollars

**3. ADDENDA**

- 3.1. The undersigned acknowledges receipt of the following Addenda and has included the cost thereof in the Lump Sum Base Bid:

No. 1, dated _____	No. 4, dated _____
No. 2, dated _____	No. 5, dated _____
No. 3, dated _____	No. 6, dated _____

**4. TRADE HOURS**

- 4.1. Total estimated trade hours required to perform the Work: \_\_\_\_\_ Trade Hours
- 4.2. The undersigned acknowledges that the estimated trade hours provided above are for Clark Construction Company scheduling purposes only and shall not be deemed a limit to trade hours required to perform the work and shall not be considered as a basis for claim.

**5. BID SECURITY**

- 5.1. Bid security in the amount of 5% of the proposal, shall accompany this proposal.

**6. PERFORMANCE AND LABOR AND MATERIAL PAYMENT BOND**

- 6.1. The undersigned agrees to furnish a Performance and Labor and Material Payment Bond, if required, by the Construction Manager.

A. The cost of such bonds, to be added to the base bid amount is: (\$ \_\_\_\_\_)  
\_\_\_\_\_ Dollars

**7. REJECTION OF BID**

- 7.1. The district will determine and award to the responsible low bidder.

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SECTION 004126  
BID PROPOSAL FORM

- 7.2. The undersigned acknowledges the right of Southgate Community Schools to reject any or all bids and to waive any informality or irregularity in the bid.

**8. PROJECT SCHEDULE**

- 8.1. The undersigned acknowledges that it shall meet requirements of the Project Milestone Schedule (Section 003113).

**9. EXTRA WORK**

- 9.1. The undersigned agrees that:
- A. A maximum of 15% overhead and profit will be allowed for Changes in the Work performed by the Trade Contractor.
  - B. A maximum of 5% overhead and profit will be allowed for Changes in the Work for any tier Subcontractor.
  - C. For changes involving both additional costs and credits to the Contract, the mark-up will be allowed on the net add only after all credits have been deducted from the additional work

**10. ALLOWANCES**

- 10.1. General
- A. Each Bidder for Bid Categories listed below, must include allowance amount in its base bid (Refer to "Allowances" section).
  - B. Allowances for specific materials (i.e., carpet, wall covering, etc.) shall cover the material cost only. All other costs including labor, overhead and profit and incidentals shall be included in the base bid.
  - C. Refer to bid Category and Allowance Specification Sections for allowance amount to include in base bid.

SECTION 004126  
BID PROPOSAL FORM

BIDDER'S NAME: \_\_\_\_\_

LEGAL ADDRESS: \_\_\_\_\_

ZIP CODE: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_

FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

The Bidder declares the following legal status in submitting this Proposal: (Check one)

\_\_\_\_\_ A Corporation organized and existing under the laws  
of the State of Michigan

\_\_\_\_\_ A Partnership

\_\_\_\_\_ Other

**CONTRACT ACKNOWLEDGEMENT**

Trade Contractor hereby acknowledges acceptance of the terms of the Contract Agreement and will enter into the Agreement with no modifications to the terms of the Agreement. ☐

**SIGNATURE**

Respectfully submitted:

\_\_\_\_\_  
SIGNATURE

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

WITNESSED BY: \_\_\_\_\_

Federal Employer Identification No.: \_\_\_\_\_

State License No.: \_\_\_\_\_

SECTION 004126  
BID PROPOSAL FORM

BIDDER'S NAME: \_\_\_\_\_

**FAMILIAL RELATIONSHIP**

**1. GENERAL**

1.1. Each Bidder shall complete, execute and submit with its Bid Proposal the following Familial Relationship Sworn Statement.

**1.2. SWORN STATEMENT**

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

School District: Southgate Community Schools

Project: 2015 Bond Program – Phase 1 – Bid Release 2

I/We disclose below any familial relationship that exists between the Owner or any employee of Bidder and any member of the Board of Education, Board of Directors or the Superintendent of Southgate Community Schools

Familial Relationships: ☐ None

☐ Listed Below

Bidder Employee/Position	Relationship	School District Associate/Position
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Subscribed and sworn to before me

By: \_\_\_\_\_  
(Authorized signer)

this \_\_\_\_ day of \_\_\_\_\_, year

\_\_\_\_\_  
(Print or type Name and Title of Signer)

\_\_\_\_\_  
(Signed by Notary Public)

Address: \_\_\_\_\_

My commission expires: \_\_\_\_\_

Telephone: \_\_\_\_\_



**IRAN ECONOMIC SANTIION ACT 517 OF 2012**

1. On December 28, 2012, Governor Snyder signed Public Act 517 of 2012, commonly known as the “Iran Economic Sanctions Act” (the “Act”). The Act provides that beginning April 1, 2013 an “Iran Linked Business” is not eligible to submit a bid on a request for proposal with a “public entity.” Under the Act, a “public entity” includes school districts and intermediate school districts. The Act also requires that a person that submits a bid in response to a public entity’s request for proposal must certify to the public entity that it is not an Iran Linked Business. This requirement applies to all requests for proposals issued by a public entity, and not just to construction projects.
2. The Act defines an Iran Linked Business as: 1) a person engaging in investment activities in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or 2) a financial institution that extends credit to another person if that person will use the credit to engage in investment activities in the energy sector of Iran.
3. If the public entity determines, using credible information available to the public, that a person or entity has submitted a false certification, the public entity must provide written notice to the person or entity of its determination and of its intent not to enter into or renew the contract. The notice must include information on how to contest the determination. The notice must also specify that the individual or entity may become eligible for future contracts with the public entity if the activities that caused it to be an Iran Linked Business are ceased.
4. The Attorney General may bring a civil action against any individual or entity reported to have submitted a false certification. If the civil action results in a finding that certification was false, the person or entity will be responsible for a civil penalty of not more than \$250,000.00 or two times the amount of the contract for which the false certification was made, whichever is greater. In addition to the fine the individual or entity will be responsible for the cost and reasonable attorney fees incurred by the public entity. An individual or entity who has submitted a false certification will be ineligible to bid on a request for proposal for 3 years from the date the certification was determined to be false.

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SECTION 004126  
BID PROPOSAL FORM

**IRAN ECONOMIC SANCTION ACT 517 OF 2012**

**BIDDER CERTIFICATION FORM**

1. Beginning April 1, 2013, an Iran linked business is not eligible to submit a bid on a request for proposal with a public entity.
2. Beginning April 1, 2013, a public entity shall require a person that submits a bid on a request for proposal with the public entity to certify that it is not an Iran linked business.
3. Pursuant to Michigan law, (the Iran Economic Sanctions Act, 2012 PA 517, MCL 129.311 et seq.), before accepting any bid or proposal, or entering into any contract for goods or services with an prospective Contractor, the contractor must first certify that it is not an "IRAN LINKED BUSINESS", as defined by law.
4. Each Contractor submitting a bid on this project shall include a letter with their bid certifying that they have full knowledge of the requirements and possible penalties under the law MCL 129.311 et seq. that the Contractor is NOT an "IRAN LINKED BUSINESS", as required by MCL 129.311 et seq., and as such that Contractor is legally eligible to submit a bid and be considered for a possible contract to supply goods and/or services to Southgate Community Schools.

I certify that I am a duly authorized representative of \_\_\_\_\_ and  
(Name of Company)  
confirm that neither I nor the company is an "Iran Linked Business"

Company Representative Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

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SECTION 005216  
AGREEMENT FORM

**1. GENERAL**

The Contract form to be used for this Project shall be a Clark Construction Co. Trade Contract. See Section 006200, Certificates and Other Forms for Sample Trade Contract and Trade Contract Conditions.

END OF SECTION

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SECTION 006113  
PERFORMANCE AND PAYMENT BOND

**1. GENERAL**

- 1.1. Whether the Performance and Labor Material Payment Bond is single or dual obligee, Trade Contractor must provide a "Performance Bond and Labor and Material Payment Bond", AIA Document A312, 2010, of the American Institute of Architects, which are hereby made a part of the Contract Documents, the same as if bound herein. The Performance and Payment Bond shall be part of the Contract and shall apply to all Trade Contractors Contract Documents.
- 1.2. All bonding companies must be listed by the U.S. Treasury.
- 1.3. All bonding companies must be rated "A" or better by AM Best.
- 1.4. All bonding companies must be licensed to do business in Michigan, or the State in which the Project is located.
- 1.5. Copies of the Performance Bond and Payment Bond may be obtained from the American Institute of Architects, national office, 1735 New York Avenue, NW, Washington, DC 20006.
- 1.6. The proposed bonding company of the Bidder shall be acceptable to Clark Construction Company. Clark Construction Company shall be listed as obligee on all Bonds.

END OF SECTION

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SECTION 006200  
CERTIFICATES AND OTHER FORMS

**1. GENERAL**

1.1. Sample documents, included in this section, shall be used through the life of the Project.

1.2. Sample forms:

- A. Trade Contractor Qualification Form
- B. Trade Contractor Contract Sample
- C. Trade Contractor Change Order Sample
- D. Certificate of Insurance Sample
- E. Application and Certificate for Payment (AIA G702 and G703 1992 Edition)
- F. MEP Cost Breakdown (required start-up submittal for MEP Contractors)
- G. Sworn Statement
- H. Partial Unconditional Waiver
- I. Full and Final Unconditional Waiver
- J. Materials Stored Payment Form
- K. Labor Rate Calculations
- L. Form of Guarantee
- M. Certificate of Substantial Completion (AIA G704)
- N. Other forms that may be required on a Project specific basis include:
  - 1. Asbestos Free Material Certification
  - 2. Substitution Request
  - 3. Request for Information – Completed electronically through the Project Specific Website (Connect)

END OF SECTION

CLARK CONSTRUCTION COMPANY  
TRADE CONTRACTOR QUALIFICATION FORM

**PROJECT NAME:** \_\_\_\_\_ **DATE** \_\_\_\_\_

**GENERAL**

Legal name of Business: \_\_\_\_\_

Principal Address: \_\_\_\_\_  
Street

P. O. Box \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Contact Person: \_\_\_\_\_ Federal ID No.: \_\_\_\_\_

E-mail Address: \_\_\_\_\_ Duns No.: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

\_\_\_\_ Corporation \_\_\_\_ Partnership \_\_\_\_ Individual \_\_\_\_ Sole Proprietorship \_\_\_\_ Joint Venture \_\_\_\_ Other

If Incorporated, State of Incorporation: \_\_\_\_\_ Year Incorporated \_\_\_\_\_

Average number of office employees: \_\_\_\_\_ Field: \_\_\_\_\_

Is your company qualified as  
(Enclose certificate) **MBE** \_\_\_\_\_ **WBE** \_\_\_\_\_ **DBE** \_\_\_\_\_  
**SMALL BUSINESS** \_\_\_\_\_ **HUB ZONE** \_\_\_\_\_ **8A** \_\_\_\_\_  
**SDB** \_\_\_\_\_ **WOSB** \_\_\_\_\_ **VOSB** \_\_\_\_\_  
**SDVOSB** \_\_\_\_\_ **HBCU/MI** \_\_\_\_\_

Does your company have a written EEO policy? Yes \_\_\_\_ No \_\_\_\_

Does your company have a current Certificate of Awardability? Yes \_\_\_\_ No \_\_\_\_

List company officers:

Name	Title	Years with Organization

State the type(s) of work in which you specialize and regularly perform with your own personnel:

\_\_\_\_\_  
Labor Relations: Union \_\_\_\_\_ Open Shop \_\_\_\_\_

**FINANCIAL**

Please submit current interim financial statement and last certified financial statement, including work in progress and contract schedule. This information will be kept strictly confidential.

Bank Reference: \_\_\_\_\_  
(Bank Name) (Telephone)

Contact Person: \_\_\_\_\_  
(Contact Name)

Amount of Line of Credit: \_\_\_\_\_ Secured? Yes \_\_\_\_ No \_\_\_\_ Amount available \_\_\_\_\_

Is your company currently in default on any loan agreement or financial agreement with any bank, financial institution or other entity? (If yes, attach details, circumstances and prospects for resolution) YES \_\_\_\_ No \_\_\_\_

**CLARK CONSTRUCTION COMPANY  
TRADE CONTRACTOR QUALIFICATION FORM**

**BONDING INFORMATION**

Furnish a signed statement from the surety certifying the following: If bonded – statement not required

Current Bonding Capacity of Company:      Aggregate \_\_\_\_\_ Single Project \_\_\_\_\_

Amount of Work Currently Bonded \_\_\_\_\_ Bond Rate \_\_\_\_\_

Name of Bonding Company \_\_\_\_\_ Co. Rating \_\_\_\_\_

Name of Bonding Agent: \_\_\_\_\_  
(Telephone) \_\_\_\_\_

Length of Time with Bonding Company \_\_\_\_\_

Have Performance or Payment Bond claims ever been made to a surety?      Yes \_\_\_\_ No \_\_\_\_

Has any surety company refused to bond the firm or any affiliate companies on any project?      Yes \_\_\_\_ No \_\_\_\_

Current capacity exists to cover the amount of this contract?      Yes \_\_\_\_ No \_\_\_\_

**INSURANCE**

Furnish a Certificate from your insurance carrier verifying all limits & project requirements to main office.

Experience Modification Rating (EMR) for the last three years: \_\_\_\_\_

**SAFETY**

Please attach copies of OSHA No. 300A Logs for the last three years along with your most current log to-date.

Does your company have a written Safety Program?      Yes \_\_\_\_ No \_\_\_\_  
If yes, provide an electronic copy or verify that a current copy is on file at Clark's Main Office.

Does your company have a Substance Abuse Program?      Yes \_\_\_\_ No \_\_\_\_

Does your company have a safety officer?      Yes \_\_\_\_ No \_\_\_\_  
If YES, provide name: \_\_\_\_\_

Does your company hold weekly craft "tool box" talk safety meetings?      Yes \_\_\_\_ No \_\_\_\_

Does your company provide foreman safety training?      Yes \_\_\_\_ No \_\_\_\_  
If YES, how often? \_\_\_\_\_

Does your company conduct safety inspections?      Yes \_\_\_\_ No \_\_\_\_  
If YES, how often? \_\_\_\_\_

Does your company give orientation/safety instruction to new hires?      Yes \_\_\_\_ No \_\_\_\_

In the past three years, has your company been cited by state or federal OSHA  
for any willful violations?      Yes \_\_\_\_ No \_\_\_\_

Please attach list on a separate sheet, the summary details for all violations including date, type, description and  
amount for the last three years

During the past three years, has your company experienced any employee fatalities?      Yes \_\_\_\_ No \_\_\_\_

**CLARK CONSTRUCTION COMPANY  
TRADE CONTRACTOR QUALIFICATION FORM**

If YES, please attach details of the accident on a separate sheet

**EXPERIENCE**

Attach list of recent major projects completed and work in progress, including average manpower required and anticipated duration of contract. Please include any projects completed with Clark Construction Company.

LIST THREE (3) SUPPLIER REFERENCES

Supplier	Project	Contact	Phone	Amount

Have you been deemed to be in default on any contract? Yes\_\_\_\_ No\_\_\_\_

Have you failed to complete any work awarded to you? Yes\_\_\_\_ No\_\_\_\_

Have you ever been adjudged bankrupt or filed a petition in bankruptcy? Yes\_\_\_\_ No\_\_\_\_

Have you filed any lawsuits or requested arbitration? Yes\_\_\_\_ No\_\_\_\_

(If you answered YES to any of the above, please attach a brief explanation)

Please attach the following documents:

- MBE/WBE/DBE Certificate (if applicable)
- Current interim Financial Statement
- Last Certified Financial Statement
- Statement of Surety or Bid Bond
- Insurance carriers EMR verification
- MIOSHA 300A Logs for the last 3 years and the most current log to-date
- Electronic Safety Manual
- OSHA violations for the last 3 years
- Completed Project List
- Work in Progress List
- Trade Contractor Qualification Form
- Schedule of Values – to be submitted at Pre-Award Meeting

As an Authorized Representative for \_\_\_\_\_  
I hereby certify that the answers to the foregoing questions, and all documents contained herein, are true and correct.  
I understand that submission of this information is in no way a guarantee of contract award by the Owner or Clark Construction Company and that the information is provided for review and evaluation purposes only.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Above Name typed or Printed)

\_\_\_\_\_  
(Title of Authorized Representative)



# TRADE CONTRACT



**CLARK**  
Construction Company  
Professional Construction Services

3535 Moores River Dr. • Lansing, MI 48911  
517.372.0940 • fax: 517.372.0668 • www.clarkcc.com

**VENDOR No.**  
DO NOT USE

**CONTRACT No.**

9999-001

THIS NUMBER MUST APPEAR ON ALL INVOICES

**TO:** ABC Excavating - Sample Company  
1234 North Ave.  
Smallville, MI 99999

**Attn:** Joe Smith  
**Phone:** 1-234-567-8910  
**Fax:** 1-234-567-8910

**JOB:** PROLOG 2008 SAMPLE PROJECT

**DATE:** 9/20/13

Perform all work per Specifications dated 1 and Plans referenced therein including Addendum 1, 2, 3, 4, Post Bid Addendum 1, 2, and Exhibit "A" - Trade Contractor Pre-Award Meeting form dated 9/20/13.

**Scope of Work:** This is the area where you would add any additional exhibits (ie: Exhibit B, C, etc.) and any other contract specific information. This field is unlimited and populates in the body of the contract.

Budget Codes	Description	Scheduled Cost
000101-01-000010	This field will default to the budget code line description	\$200,000.00
000101-01-000010	Site Utilities (this is the default for the budget code)	\$200,000.00
000101-02-000010	Construction manager's FEE	\$10,000.00
000102-03-000010	CM Fee For Building A-e	\$15,000.00
<b>TOTAL AMOUNT OF THIS CONTRACT:</b>		<b>\$425,000.00</b>

# Sample

**NOTICE:** Substitute forms must not be used. Signed copy certifies your acceptance of the terms and conditions appearing above and in the attached Trade Contract Conditions and/or exhibits to this Trade Contract.

Clark Construction Company  
CONTRACTOR

ABC Excavating - Sample Company  
TRADE CONTRACTOR/SUPPLIER

By Racheal Cline

By

Signature

Signature

Date

Date

Section 006200.1.2.B  
TRADE CONTRACT CONDITIONS

The Trade Contractor agrees:

- 1)
  - a. That it is bound to Clark Construction Company (Contractor herein) by the terms of all Contract Documents of Clark Construction Company's Contract with the Owner (hereinafter referred to as Prime Contract) (including, but not limited to drawings, specifications, general conditions, special and supplemental conditions and addenda), and to assume toward Clark Construction Company all obligations and responsibilities that Clark Construction Company by said documents, assumes toward the Owner.
  - b. The Trade Contractor binds itself to Clark Construction Company for the performance of Trade Contractor's Work in the same manner as Clark Construction Company is bound to the Owner for such performance under the Prime Contract. The Prime Contract or the pertinent parts of such Contract will be made available upon Trade Contractor's request.
  - c. The Contract Documents consist of the Trade Contract, these Trade Contract Conditions, the attached Trade Contract Rider (if any), the Prime Contract, the drawings, specifications, general conditions, special and supplemental conditions, change orders and all addenda.
  - d. The Work is the completed construction required of the Trade Contractor by the Contract Documents and includes all labor, material, and equipment necessary to perform the Work
  - e. The Contract price includes, and Trade Contractor shall obtain, all permits and licenses, and pay all permit and license fees, sales tax, use taxes, freight and unloading of material at jobsite necessary for the completion of the Work. Trade Contractor shall pay all taxes applicable to this Contract.
- 2) Trade Contractor shall timely furnish all items of the Work described in this Contract, including, but not limited to all labor, materials, equipment, services, layout, taxes, and any other expressly or impliedly required or necessary by inference to complete all portions of the Work in accordance with the Contract Documents.
- 3)
  - a. Should any question arise with respect to the interpretation of the drawings and specifications, such questions shall be submitted to the Architect/Engineer as required and in like manner as the Prime Contract and such decision shall be final and binding upon the Trade Contractor. If there is no Architect/Engineer for this project, Clark Construction Company's decision shall be followed by the Trade Contractor.
  - b. This Contract and all Contract Documents are intended to supplement and complement each other and shall, where possible, be thus interpreted. If, however, any provision of this Contract irreconcilably conflicts with a provision of any other Contract Document, the provision imposing the greater duty on the Trade Contractor shall govern.
- 4) Trade Contractor has carefully examined the site and all Contract Documents and, from its own investigation, has satisfied itself as to the nature and location of the Work, the general and local conditions, and all matters which may, in any way, affect its Work or its performance and that as a result of its examination and investigation, Trade Contractor understands the requirements of its Work.
- 5) Trade Contractor shall submit Shop Drawings, Product Data, and Samples for all items of its Work and obtain approval of same prior to installation in accordance with procedure required by the Contract Documents.
- 6) Trade Contractor agrees within ten (10) days after written demand, to cause the effect of any lawsuit, lien and/or claim on bond, filed by a party employed and/or contracted by Trade Contractor, to be removed. In the event Trade Contractor shall fail to do so, Clark Construction Company is authorized to use whatever means in its discretion it may deem appropriate to cause said lawsuit, lien and/or bond claim to be removed or dismissed and Trade Contractor shall be responsible for the costs including all attorney fees incurred by Clark Construction Company. Trade Contractor may litigate any lawsuit, lien and/or bond claim provided Trade Contractor causes the effect thereof to be removed, promptly in advance, and shall do such things as are necessary to cause the Owner not to withhold any monies due to Clark Construction Company from Owner by reason of such lawsuit, lien and/or bond claim.
- 7)
  - a. No extra or additional Work performed or material provided will be performed or provided by the Trade Contractor unless he obtains prior written approval and in the event Trade Contractor performs such extra or additional Work or provides material without prior written approval, then Trade Contractor thereby expressly waives any and all claims for additional payment for the extra or additional Work and/or the material provided.
  - b. Notwithstanding any other provision, if the Work for which the Trade Contractor claims extra compensation is determined by the Owner or the Architect/Engineer not to entitle Clark Construction Company to a change order or extra compensation, then Clark Construction Company shall not be liable to the Trade Contractor for any extra compensation for such Work, unless Clark Construction Company agreed, in writing prior to execution of the Work, to such extra compensation.
  - c. Trade Contractor shall make all claims for extras, additional compensation and for extensions of time to Clark Construction Company in accordance with the procedures set forth in the Prime Contract.

Section 006200.1.2.B  
TRADE CONTRACT CONDITIONS

- d. If the Trade Contractor shall be materially delayed in the progress of the Work for reasons beyond the Trade Contractor's control, and under such circumstances as entitle Clark Construction Company to an extension of time under the Prime Contract, then Trade Contractor shall be entitled to a corresponding extension of time for completion of the Work. The extension of time herein provided shall be Trade Contractor's sole and exclusive remedy for any delay, and Trade Contractor hereby waives any claims for damages against Clark Construction Company or Owner by reason of delay.
- e. Trade Contractor agrees that Clark Construction Company shall not be liable to Trade Contractor for delay, acceleration, interference of any kind or changed conditions to Trade Contractor's Work by the act, neglect or fault of the Owner, Owner's agent, another Trade Contractor, or the Architect/Engineer, or by reason of fire or other casualty, or on account of any act of God, or any other cause beyond Clark Construction Company's control, or on account of any circumstances caused or contributed to by the Trade Contractor; provided, however, notwithstanding anything else contained herein, Clark Construction Company will be liable to the Trade Contractor for damages it incurs as a result of any acts or failures to act, by the Owner which delays, accelerates, interferes, interferes or changes the Trade Contractor's Work only to the extent the Owner is liable for such damages and actually pays Clark Construction Company for such damages; it being expressly understood that the only obligation Clark Construction Company has to the Trade Contractor under this provision is to pass on to the Owner any claim the Trade Contractor has for damages for delays caused by the Owner and to pay to the Trade Contractor any amounts which the Owner pays to Clark Construction Company as a result of such claim for Owner caused delays.
- 8) Trade Contractor shall be responsible for all clean-up in connection with this Contract. Trade Contractor shall be charged for clean-up services performed by Clark Construction Company for the Trade Contractor's operations.
- 9) As a condition precedent to payment, Trade Contractor shall furnish all waivers, releases and sworn statements required by any applicable construction lien law, bond law, or other applicable statute and such other evidence as may be required by Clark Construction Company, Owner, or Owner's lender to substantiate payment.
- 10) Payments hereunder will be on monthly installments commencing within 30 days after commencement of Work, equal to 90% of the value of completed Work, as estimated by Trade Contractor, approved by Clark Construction Company, and paid by Owner; so long as the Trade Contractor is not in default hereunder, installment payments shall be made within 10 days after Clark Construction Company has been paid by the Owner on account of the Trade Contractor's Work and to the extent therein; final payment within 30 days after completion and acceptance by the Architect and/or Engineer and approval and payment by the Owner. Acceptance of final payment by Trade Contractor shall constitute a full and final waiver of all of Trade Contractor's claims of whatever nature against Clark Construction Company and Owner on this project. No payments will be required unless Trade Contractor provides a sworn statement, waiver of lien and/or other evidence required by Clark Construction Company's billing instructions, any applicable construction lien or similar law and all documents necessary to assure Trade Contractor is meeting its Contractual obligations to the Trade Contractors and suppliers. All payments are to be made to the Trade Contractor only out of such equivalent payments actually received by Clark Construction Company for Work done by the Trade Contractor and Trade Contractor agrees actual payment by the Owner and receipt by Clark Construction Company shall be a condition precedent to any payment obligation of Clark Construction Company to the Trade Contractor. This paragraph shall be applicable even in the event Clark Construction Company posts a labor and material payment bond and performance bond. The Trade Contractor agrees that Clark Construction Company shall be under no obligation to pay the Trade Contractor for any Work performed on this construction project, unless Clark Construction Company has been paid therefore by the Owner. The provisions hereof, stating when progress and final payments are due are subject to the condition that Clark Construction Company receive payment from the Owner on account of Work performed by the Trade Contractor on this construction project. **The Trade Contractor expressly contemplates that payments to it are contingent upon Clark Construction Company's receiving payment from the Owner, the Trade Contractor expressly agreeing to accept the risk that it will not be paid for Work performed on the credit and ability of the Owner, and not of Clark Construction Company, and thus the Trade Contractor agrees that payment by the Owner shall be a condition precedent to any payment obligation of Clark Construction Company to the Trade Contractor.** The Trade Contractor agrees that the liability of the surety on Clark Construction Company's payment bond, if any, for payment to the Trade Contractor, is subject to the same conditions precedent as are applicable to Clark Construction Company's liability to the Trade Contractor.
- 11) To submit to Clark Construction Company applications for payment in such reasonable time as to enable Clark Construction Company to apply for payment. Trade Contractor shall make application for payment and invoices for monthly drawings in accordance with the billing instruction delivered with this Contract.
- 12) a. Clark Construction Company may deduct from any amount due or to become due to the Trade Contractor any sum or sums owing by the Trade Contractor to Clark Construction Company.
- b. In the event of any breach by the Trade Contractor of any obligation of this Contract, or in the event Clark Construction Company deems it necessary to protect against claims by other Trade Contractors or any claim against the Owner, Clark Construction Company, the surety for Clark Construction Company or the premises upon which the Work is being performed, which claim arises out of the Trade Contractor's performance of this Contract, Clark Construction Company has the right, but is not obligated, to retain out of any amount due or to become

Section 006200.1.2.B  
TRADE CONTRACT CONDITIONS

due to the Trade Contractor, an amount sufficient to completely protect Clark Construction Company from any and all loss, damage or expense until the claim has been resolved to the satisfaction of Clark Construction Company.

- c. Clark Construction Company shall have the right, but is not required, to issue joint checks comprising funds due or to become due to the Trade Contractor and any of its lower-tiered Contractors or material suppliers for which Trade Contractor's sworn statement or any sworn statement identifies a sub-tier party as having sums due and owing.
  - d. This paragraph (12a-d) shall be applicable even though the Trade Contractor has posted a full payment and performance bond.
- 13) Trade Contractor shall be required to complete the Work and its several parts on or before the date or dates established by Clark Construction Company's progress schedule. Should the Trade Contractor, in the opinion of Clark Construction Company, at any time during the performance of the Contract, neglect or refuse to supply a sufficiency of properly skilled workman or of materials of proper quality, fail in any respect to prosecute the Work with promptness and diligence, fail to perform any terms of the conditions of the Contract, then Clark Construction Company may, after giving reasonable notice to the Trade Contractor, provide any necessary labor, materials or equipment required to assist Clark Construction Company in the completion of the Work and deduct the cost thereof from any monies due or thereafter due the Trade Contractor under this Contract, or any other Contract with Clark Construction Company. In the event the Trade Contractor shall fail to timely perform all or a portion of the Work required by the Contract, Clark Construction Company, upon three (3) working days' notice to the Trade Contractor, shall have the right to take over the Work required hereunder or any identifiable portion thereof with all materials, tools and appliances of the Trade Contractors on the premises and complete the Contract, or any specified portion thereof, charging the costs of said performance to the Trade Contractor. Clark Construction Company shall have the right to withhold all payments to the Trade Contractor until such costs have been paid to Clark Construction Company.
- 14) a. Trade Contractor agrees to employ sufficient manpower and methods to complete the Work in a timely fashion and will only employ persons who will Work at all times in harmony with other persons employed on the project and Trade Contractor agrees that labor disputes of any kind involving any other Contractors, Trade Contractors or their employees will not be permitted to occur on the project and such labor disputes as a result of those performing the Work hereunder shall not be cause for delay of the progress of Trade Contractor's Work and Trade Contractor will not be granted an extension of time in the event of such delay.
- b. Trade Contractor agrees to perform the Work and all parts thereof at such time and in such order and sequence as Clark Construction Company may direct and as required for the best possible progress of the Work and to conduct its Work and perform all activities incidental thereto so as to facilitate and so as not to interfere with or delay the Work or the best possible progress of the Work in several or all parts simultaneously, if directed to do so by Clark Construction Company.
- c. In the event the project's progress schedule shall fall behind or be delayed due to any cause of Trade Contractor, whether or not due to its own fault or neglect, the Trade Contractor may be required at the direction of Clark Construction Company, to Work such overtime or provide additional resources, for no additional compensation, as may be necessary to avoid delay and completion of the Work under this Contract.
- d. Clark Construction Company reserves the right to modify any approved progress schedule with respect to the required sequence or duration of the Work or any portion thereof and Clark Construction Company makes no representations that Trade Contractor will be able to commence, prosecute or complete the Work in accordance with any progress schedule.
- 15) Trade Contractor shall defend, protect, indemnify and save harmless, the Owner, Clark Construction Company, their agents and assigns against any and all suits for claimed infringements of letters patent claimed to cover Trade Contractor's products, or any part thereof.
- 16) Trade Contractor shall, to the fullest extent permitted by law, secure, defend, protect, hold harmless and indemnify the Owner, Clark Construction Company, including any party Clark Construction Company is required to indemnify and the Architect and any of their respective agents, servants and employees against any liability, loss, claims, demands, suits, costs, fines, attorney fees, and any expenses whatsoever arising from bodily injury, sickness, disease, (including death resulting therefrom), of any persons, or the damage or destruction of any property or Work required by this Contract, including loss of use, arising out of or in connection with the performance of any Work relating to this Contract including extra Work assigned to the Trade Contractor, based upon any act or omission, negligent or otherwise, (including active or passive negligence) of (a) the Trade Contractor or any of its agents, employees or servants, (b) any Tiered Trade Contractor, supplier, or material man of the Trade Contractor, or any agents, employees or servants thereof, (c) any other person or persons. The Trade Contractor's obligations of indemnification contained herein shall exclude only those matters in which the claim is caused by the sole negligence of the Owner, the Architect, Clark Construction Company, or any of their respective agents, servants and employees. The obligations herein shall apply regardless of whether such suits, damages, judgments, liabilities, interest, attorney fees, costs, etc., are caused in part by a party indemnified hereunder or by anyone acting under their direction, control, or on their behalf. Also the obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Trade Contractor under Workers

Section 006200.1.2.B  
TRADE CONTRACT CONDITIONS

Compensation Act, Disability Benefits Act or other employee benefit act. The obligation of indemnification shall survive the completion of the Contract. In the event an indemnified party (Clark Construction Company, the Owner, the Architect) takes

any action, to enforce this indemnification provision the indemnified party shall be entitled to payment of actual attorney fees and costs incurred, from the Trade Contractor.

- 17) Trade Contractor shall comply with all Federal, State and Local laws, codes, executive orders, and regulations and all local ordinances and regulations effective where the Work under this Contract is to be performed, and to pay all costs and expenses connected with such compliance, to pay for itself and its trade contractors, all wages, fees, and taxes of whatever nature required by the foregoing, and also to pay for itself and its trade contractors all taxes imposed by any State or Federal law for any employment insurance, pension, unemployment compensation, old age retirement/disability funds or any similar purpose and to furnish all necessary reports and information to the appropriate Federal, State and Local agencies, with respect to all of the foregoing the same as if Trade Contractor was in fact the Contractor, and to hold Clark Construction Company and the Owner harmless from any and all losses or damage occasioned by the failure of the Trade Contractor to comply with the terms of this paragraph.
- 18) a. In the event Clark Construction Company's Contract with the Owner contains a termination for convenience clause which is exercised by the Owner and/or Clark Construction Company, the rights, duties, and obligations of the parties herein shall be governed by the terms of the provisions of the convenience clause exercised by the Owner and/or Clark Construction Company.
- b. Clark Construction Company shall, at its sole option and discretion, have the right to terminate the Agreement for any reason whatsoever by providing the Trade Contractor with a written Notice of Termination to be effective immediately upon receipt by Trade Contractor of the written Notice of Termination. A termination by default of the Agreement shall, if wrongfully made, be treated as a termination for convenience under this clause. Whenever the Trade Contractor is terminated for convenience under this clause or is wrongfully terminated under any other clause of this Agreement, the Trade Contractor shall only be entitled to the actual direct costs of all labor and material expended on the job prior to the effective date of termination plus eight (8) percent of the actual direct costs or Trade Contractor shall be entitled to be paid a pro rata percentage of the total Agreement price which is equal to its percent of completion, whichever of the two methods provides the lowest sum to be paid to the Trade Contractor. In no event shall the Trade Contractor be entitled to anticipatory profit or consequential damage for any termination under this clause. In no event shall the Trade Contractor be entitled to assert a claim in quantum or any other measure of damage other than that stated herein.
- 19) Not to discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to his hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of sex, race, color, religion, national origin or ancestry. Any nondiscrimination agreement required by the Prime Contract shall be executed by the Trade Contractor and all of its tiered Contractors.
- 20) a. To provide general liability insurance, including comprehensive, products and completed operations, hazards, contractual and independent Contractors, as well as automobile liability, Worker's Compensation and employee liability coverage on all its employees and his Trade Contractors' employees engaged in executing this Contract and to provide all other insurance coverage required by the Contract Documents to the Prime Contract.
- b. Trade Contractor shall carry, and require its Trade Contractors to carry, identical insurance to that which Clark Construction Company is required to carry under the Prime Contract. Trade Contractor's insurance shall include contractual liability coverage applicable to its obligations pursuant to this Contract.
- c. Trade Contractor shall cause its insurance carrier to add Clark Construction Company as an additional insured on all such policies excluding Worker's Compensation and automobile insurance prior to commencement of Work. Trade Contractor's Insurance carriers shall be directed to notify Clark Construction Company 15 days in advance of cancelation of any insurance coverage required herein. The additional insured endorsement included on the Trade Contractor's insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the Trade Contractor. If the additional insureds have other insurance which is applicable to the project, such other insurance shall be on an excess or contingent basis. The amount of the insurer's liability under this insurance policy shall not be reduced by the existence of such other insurance.
- d. The Trade Contractor agrees that the insurance coverage required by contract shall be continued throughout the duration of the warranty period specified by the contract. For Contracts that require Pollution Insurance coverage, such coverage shall be continued for three years beyond the substantial completion date of the project, or as specified by the Prime Contract, whichever duration is greater. Upon request by Clark Construction and/or Owner, Trade Contractor shall provide evidence/proof of insurance that the insurance coverage is being continued throughout the period specified by contract.

Section 006200.1.2.B  
TRADE CONTRACT CONDITIONS

- 21) a. Clark Construction Company and Trade Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by property insurance provided under the Prime Contract, except such rights as they may have to the proceeds of such insurance held by the Owner as trustee. Trade Contractor shall require similar waivers by its Trade Contractors.
- b. Clark Construction Company and Trade Contractor waive all rights against each other and the Architect for loss or damage to any equipment used in connection with the project which loss is covered by any property insurance. The Trade Contractor shall require similar waivers from all of its Trade Contractors. This provision shall not operate to relieve Clark Construction Company or Trade Contractor of responsibility for any loss or damage to their own or rented property of their employees which is not to be included in and remain a part of the permanent construction.
- 22) Trade Contractor agrees to provide Clark Construction Company with all warranties required by Clark Construction Company in the Prime Contract which relate to Trade Contractor's Work. Such warranties shall commence and continue in effect for the full period of Clark Construction Company's obligation to the Owner as provided in the Prime Contract.
- 23) Trade Contractor shall, at its own cost and expense, protect its employees and other persons from the risk of death, injury or bodily harm arising out of or in any way connected with the Trade Contractor's Work and Trade Contractor shall protect all persons on or near the premises from all unreasonable risk of injury that arises during or as a result of the Work. Trade Contractor shall provide a safety coordinator for the Work. In addition to the above, the Trade Contractor shall strictly comply with Clark Construction Company's safety program for the project with all safety policies and procedures of Clark Construction Company.
- 24) This Contract is subject to modifications by Clark Construction Company in the event of fire, accidents, strikes, government acts, or other conditions beyond its control.
- 25) Time is of the essence for both parties, and they mutually agree to see to the performance of their Work and the Work of their Trade Contractors in accordance with applicable standards of care so that the entire project may be completed in accordance with the Contract Documents.
- 26) a. No waiver by Clark Construction Company of any breach of Trade Contractor or of a provision of this Contract shall be deemed a waiver of any other provision hereof or of any subsequent breach by Trade Contractor of such provision.
- b. If any provision of this Contract is invalid or unenforceable to any extent, the remainder of this Contract shall be valid and enforceable to the fullest extent permitted by law.
- 27) That this Contract is the entire agreement of the parties and there is no verbal understanding or agreement between Trade Contractor and Clark Construction Company other than the conditions stated in this Contract.
- 28) The Trade Contractor agrees that Clark Construction Company shall have the sole discretion to elect to demand arbitration with the Trade Contractor for any dispute or claim arising out of or relating to this Contract or breach thereof or performance thereof, and if arbitration is elected by Clark Construction Company, then the arbitration shall be decided in accordance with the Construction Industry Rules of the American Arbitration Association. Arbitration proceedings shall be held in Southfield, Michigan, at the offices of the American Arbitration Association or such other place as designated by Clark Construction Company. In the event that Clark Construction Company shall elect not to demand arbitration, then the matter shall proceed in a court of competent jurisdiction for the dispute.
- 29) Mediation. Except as stated in this Agreement or otherwise agreed in writing by the parties, claims arising out of or related to the Contract shall be subject to mediation as a condition precedent to the parties' agreed-upon dispute resolution process. The Project Owner or Construction Manager reserves the right in its discretion to require consolidation or joinder of any mediation or arbitration arising out of or relating to this Agreement with another mediation or arbitration involving a person or entity not a party to this Agreement but in any event the Owner or Construction Manager believes such consolidation or joinder is necessary in order to resolve a dispute or avoid duplication of time, expense or effort. Any mediation or arbitration hearing shall be held in the general location where the Project is located, unless another location is mutually agreed upon.
- 30) That Clark Construction Company may cancel this Contract if not executed as specified and no alteration of any provision hereunder and no substituted form will be accepted by Clark Construction Company.
- 31) Clark Construction Company may deduct or set-off against any amount due Trade Contractor or any amount to become due Trade Contractor, any claim that Clark Construction Company may have against Trade Contractor arising out of this Contract, or any other Contract/transaction between Trade Contractor and Clark Construction Company.

Section 006200.1.2.B

TRADE CONTRACT CONDITIONS

- 32) Clark Construction Company and Trade Contractor agree that signatures on documents required by this contract, including but not limited to Change orders, Sworn Statements etc., may be delivered by electronic mail in lieu of an original signature. The signature on a document delivered by electronic mail is agreed to be an original signature and shall have the same force and effect as an original signature. The Trade Contractor agrees that Clark Construction Company may rely on signatures affixed to a document delivered by electronic mail and is immediately binding upon the Trade Contractor upon receipt of the document by Clark Construction Company by electronic mail.
- 33) Asbestos-free product installation. It is hereby understood and agreed that no product and/or material containing asbestos including chrysolite, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos and any combination of these materials that have been chemically treated and/or altered shall be installed or introduced into the Work by the Trade Contractor or his employees, agents, subcontractors, or other individuals or entities over whom the Trade Contractor has control. The Trade Contractor shall be required to provide a signed certification statement ensuring that all products or materials installed or introduced into the Work all be asbestos-free. The Trade Contractor shall also be required to furnish certified statements from the manufacturers of supplied materials used during construction verifying their products to be asbestos-free. The Trade Contractor shall complete and submit to the Construction Manager and Owner a certification evidencing asbestos-free product installation prior to issuance of the final Certificate for Payment, in a form acceptable to the Owner.
- 34) Third Party Beneficiary. Trade Contractor agrees the Owner of the Project is a third party beneficiary of the Trade Contractor contract with the Construction Manager.

PLEASE SIGN AND RETURN THESE CONDITIONS

NAME: \_\_\_\_\_



## Change Order

Trade Contractor Change Order

Project # \_\_\_\_\_

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

To Trade Contractor/Supplier: \_\_\_\_\_

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

Contract Number: \_\_\_\_\_

Change Order Number: \_\_\_\_\_

FURNISH LABOR, MATERIAL, TAXES, SUPERVISION, MAN POWER AND ALL OTHER SERVICES REQUIRED PER YOUR CONTRACT TO COMPLETE THE FOLLOWING ADDITIONAL WORK:

PCO	PCCO	Budget Code	Description	Amount
-----	------	-------------	-------------	--------

Trade Contractor agrees that this change order shall fully compensate Trade Contractor for all costs directly or indirectly related to this work and for any direct or indirect effect upon other Work or Schedule under the Trade Contract Documents. Trade Contractor agrees that any claim for direct costs, indirect costs, and cumulative impact costs are included in the change order amount. No extension of time for the performance of this Change Order work or any other work under the Contract Documents shall be allowed as a result of this Change Order, except as otherwise specifically provide within this Change Order. All other terms and conditions of the Agreement between Contractor and Trade Contractor remain unchanged.

The original Contract/PO Value was.....	\$
Sum of changes by prior Change Orders.....	\$
The Contract/PO Value prior to this Change Order was.....	\$
The Contract/PO Value will be changed by this Change Order in the amount of.....	\$
The new Contract/PO Value including this Change Order will be.....	\$
The Contract/PO duration will be changed by.....	
The revised Substantial Completion date as of this Change Order is.....	

CONTRACTOR \_\_\_\_\_

TRADE CONTRACTOR/SUPPLIER \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

SIGNATURE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/01/2012

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 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  Agent Name and Address	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED  Subcontractor Name and Address	INSURER A: A.M. BEST Rated "A" or Better	
	INSURER B: A.M. BEST Rated "A" or Better	
	INSURER C: A.M. BEST Rated "A" or Better	
	INSURER D: A.M. BEST Rated "A" or Better	
	INSURER E: A.M. BEST Rated "A" or Better	
	INSURER F: A.M. BEST Rated "A" or Better	

## COVERAGES

## CERTIFICATE NUMBER:

## 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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	<b>GENERAL LIABILITY</b>							
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY	<input type="checkbox"/>	<input type="checkbox"/>	Policy Number	01/01/2012	01/01/2013	EACH OCCURRENCE	\$ 1,000,000
<input type="checkbox"/>	CLAIMS-MADE	<input checked="" type="checkbox"/>	<input type="checkbox"/>				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
<input type="checkbox"/>	INCLUDE RESIDENTIAL						MED EXP (Any one person)	\$ 10,000
<input type="checkbox"/>	DEFECT PROD/COMP OPS						PERSONAL & ADV INJURY	\$ 1,000,000
<input type="checkbox"/>	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 2,000,000
<input type="checkbox"/>	POLICY	<input checked="" type="checkbox"/>	<input type="checkbox"/>				PRODUCTS - COMPI/OP AGG	\$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b>							
<input checked="" type="checkbox"/>	ANY AUTO	<input type="checkbox"/>	<input type="checkbox"/>	Policy Number	01/01/2012	01/01/2013	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
<input type="checkbox"/>	ALL OWNED AUTOS	<input type="checkbox"/>	<input type="checkbox"/>				BODILY INJURY (Per person)	\$
<input checked="" type="checkbox"/>	HIRED AUTOS	<input checked="" type="checkbox"/>	<input type="checkbox"/>				BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
								\$
	<b>UMBRELLA LIAB</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Policy Number	01/01/2012	01/01/2013	EACH OCCURRENCE	\$ 1,000,000
	EXCESS LIAB	<input type="checkbox"/>	<input type="checkbox"/>				AGGREGATE	\$ 1,000,000
	DED							\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>			Policy Number	01/01/2012	01/01/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/>	N/A				E.L. EACH ACCIDENT	\$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ 500,000
							E.L. DISEASE - POLICY LIMIT	\$ 500,000
	Errors and Omissions			Policy Number	01/01/2012	01/01/2013	Limit: \$1,000,000	
	Contractors Pollution Liability						Limit: \$1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Clark Construction Company is an Additional Insured for project (name) and project (number)

**SAMPLE**

## CERTIFICATE HOLDER

## CANCELLATION

Clark Construction Company 3535 Moores River Drive Lansing, MI 48911	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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**Application and Certificate for Payment**

TO OWNER:	PROJECT:	APPLICATION NO:	<b>Distribution to:</b>
		PERIOD TO:	OWNER <input type="checkbox"/>
		CONTRACT FOR:	ARCHITECT <input type="checkbox"/>
FROM CONTRACTOR:	VIA ARCHITECT:	CONTRACT DATE:	CONTRACTOR <input type="checkbox"/>
		PROJECT NOS:        /        /	FIELD <input type="checkbox"/>
			OTHER <input type="checkbox"/>

**CONTRACTOR'S APPLICATION FOR PAYMENT**

Application is made for payment, as shown below, in connection with the Contract. AIA Document G703™, Continuation Sheet, is attached.

1. ORIGINAL CONTRACT SUM ..... \$ \_\_\_\_\_

2. NET CHANGE BY CHANGE ORDERS ..... \$ \_\_\_\_\_

3. CONTRACT SUM TO DATE (Line 1 + 2) ..... \$ \_\_\_\_\_

4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) ..... \$ \_\_\_\_\_

5. RETAINAGE:

a. \_\_\_\_\_ % of Completed Work  
(Columns D + E on G703)

b. \_\_\_\_\_ % of Stored Material  
(Column F on G703)

\$ \_\_\_\_\_

Total Retainage (Lines 5a + 5b, or Total in Column I of G703) ..... \$ \_\_\_\_\_

6. TOTAL EARNED LESS RETAINAGE ..... \$ \_\_\_\_\_  
(Line 4 minus Line 5 Total)

7. LESS PREVIOUS CERTIFICATES FOR PAYMENT ..... \$ \_\_\_\_\_  
(Line 6 from prior Certificate)

8. CURRENT PAYMENT DUE ..... \$

9. BALANCE TO FINISH, INCLUDING RETAINAGE ..... \$ \_\_\_\_\_  
(Line 3 minus Line 6)

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$	\$
Total approved this month	\$	\$
TOTAL	\$	\$
NET CHANGES by Change Order	\$	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

**CONTRACTOR:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
State of: \_\_\_\_\_  
County of: \_\_\_\_\_  
Subscribed and sworn to before  
me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public:  
My commission expires: \_\_\_\_\_

**ARCHITECT'S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... \$ \_\_\_\_\_  
(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

**ARCHITECT:**

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

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

**CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.**

# **AIA** Document G702™ – 1992 Instructions

## ***Application and Certificate for Payment***

### **GENERAL INFORMATION**

**Purpose and Related Documents.** AIA Document G702™–1992, Application and Certificate for Payment, is to be used in conjunction with AIA Document G703™, Continuation Sheet. These documents are designed to be used on a Project where a Contractor has a direct Agreement with the Owner. Procedures for their use are covered in AIA Document A201™, General Conditions of the Contract for Construction.

**Use of Current Documents.** Prior to using any AIA Contract Document, users should consult [www.aia.org](http://www.aia.org) or a local AIA component to verify the most recent edition.

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### **COMPLETING G702**

After the Contractor has completed AIA Document G703, Continuation Sheet, summary information should be transferred to AIA Document G702, Application and Certificate for Payment.

The Contractor should sign G702, have it notarized, and submit it, together with G703, to the Architect.

The Architect should review G702 and G703 and, if they are acceptable, complete the Architect's Certificate for Payment on G702.

The Architect may certify a different amount than that applied for, pursuant to Sections 9.5 and 9.6 of A201. The Architect should then initial all figures on G702 and G703 that have been changed to conform to the amount certified and attach an explanation. The completed G702 and G703 should be forwarded to the Owner.

### **MAKING PAYMENT**

The Owner should make payment directly to the Contractor based on the amount certified by the Architect on AIA Document G702, Application and Certificate for Payment. The completed form contains the name and address of the Contractor. Payment should not be made to any other party unless specifically indicated on G702.

### **EXECUTING THE DOCUMENT**

Persons executing the document should indicate the capacity in which they are acting (i.e., president, secretary, partner, etc.) and the authority under which they are executing the document. Where appropriate, a copy of the resolution authorizing the individual to act on behalf of the firm or entity should be attached.



## Continuation Sheet

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing Contractor's signed certification is attached.  
In tabulations below, amounts are stated to the nearest dollar.  
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO:  
APPLICATION DATE:  
PERIOD TO:  
ARCHITECT'S PROJECT NO:

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G ÷ C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
</									

**CAUTION:** You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.



Project:

## MEP Cost Breakdown

	Value	
<b><u>PLUMBING</u></b>		
1 Underground Sanitary Piping	\$	-
2 Above Ground Waste & Vent Piping	\$	-
3 Storm Drainage Piping	\$	-
4 Water Supply Piping	\$	-
5 Pipe Insulation	\$	-
6 Plumbing Fixtures	\$	-
7 Gas Piping	\$	-
8 Other / Special Systems:	\$	-
<b><u>HVAC</u></b>	\$	-
1 Hydronic Piping & Pumps	\$	-
2 Steam Piping & Pumps	\$	-
3 Refrigerant Piping	\$	-
4 Pipe Insulation	\$	-
5 Ductwork	\$	-
6 Duct Insulation	\$	-
7 VAV Boxes	\$	-
8 Grilles, Registers, Diffusers	\$	-
9 Heating Boilers	\$	-
10 Furnaces	\$	-
11 Packaged Water Chillers	\$	-
12 Cooling Towers	\$	-
13 Packaged Compressors and Condenser Units	\$	-
14 Packaged Air Handler Units	\$	-
15 Exhaust Fans	\$	-
16 Humidity Control Equipment	\$	-
17 Temperature Controls & Energy Management	\$	-
18 Commissioning	\$	-
19 Demolition & Excavation for Your Work	\$	-
20 Other / Special Systems:	\$	-
<b><u>ELECTRICAL</u></b>	\$	-
1 Incoming Primary	\$	-
2 Service & Distribution (Transformers, Switchgear, Panel Boards & M	\$	-
3 Interior Lighting	\$	-
4 Exterior Lighting	\$	-
5 Outlets, Receptacles & Switches	\$	-
6 Equipment Connections	\$	-
7 Conduits, Pull Boxes, Junction Boxes, Bus Ways	\$	-
8 Wiring & Cabling	\$	-
9 Fire Alarm & Detection	\$	-
10 Lightning Protection	\$	-
11 Intercom & Sound	\$	-
12 Security & CCTV	\$	-
13 Emergency Generator	\$	-
14 Low Voltage Cabling	\$	-
15 Demolition & Excavation for Your Work	\$	-
16 Other / Special Systems:	\$	-
<b><u>General Items</u></b>	\$	-
1 Bond Fee	\$	-
2 Submittals	\$	-
3 Close-Out	\$	-
4 As-Builts	\$	-
5 Warranty Call Back		
6 Mobilization	\$	-
7 Testing & Balancing	\$	-
8 Profit / Overhead	\$	-

4

STATE OF:

SS

improvement to the following described real property in \_\_\_\_\_ County, Michigan, described as follows: *(Insert legal description from Notice of Commencement or name and address of the Project)*

That the following is a statement of each subcontractor and supplier and laborer, for whom payment of wages or fringe benefits and withholdings is due but unpaid, with whom the (contractor) (subcontractor) has (contracted) (subcontracted) for performance under the contract with the owner or lessee of the property and the amounts due to the persons as of the date of this statement are correctly and fully set forth opposite their names:

Name of subcontractor, supplier or laborer	Type of improvement furnished	Total contract price	Amount already paid	Amount currently owing	Balance to complete (optional)	Amount of laborer wages due but unpaid	Amount of laborer fringe benefits and withholdings due but unpaid
Totals	0	0	0	0			

(Some columns are not applicable to all persons listed)

The contractor has not procured material from, or subcontracted with any person other than those set forth, and owes no money for the improvement other than the sums set forth.

I make this statement as the (contractor) (subcontractor) or as \_\_\_\_\_ of the (contractor) (subcontractor) to represent to the owner or lessee of the property and his or her agents that the property is free from claims of construction liens, or the possibility of construction liens, except as specifically set forth in this statement for claims of construction liens by laborers that may be provided under section 109 of the construction lien act, 1980, P.A. 497, MCL 570.1109.

WARNING TO OWNER: AN OWNER OR LESSEE OF THE PROPERTY MAY NOT RELY ON THIS SWORN STATEMENT TO AVOID THE CLAIM OF A SUBCONTRACTOR, SUPPLIER, OR LABORER WHO HAS PROVIDED A NOTICE OF FURNISHING OR A LABORER WHO MAY PROVIDE A NOTICE OF FURNISHING UNDER SECTION 109 OF THE CONSTRUCTION LIEN ACT 1980 P.A. 497, MCL 570.1109 TO THE DESIGNEE OR THE OWNER OR LESSEE IF THE DESIGNEE IS NOT NAMED OR HAS DIED.

\_\_\_\_\_  
Deponent

WARNING TO THE DEPONENT: A PERSON, WHO GIVES A FALSE SWORN STATEMENT WITH THE INTENT TO DEFRAUD IS SUBJECT TO CRIMINAL PENALTIES AS PROVIDED IN SECTION 110 OF THE CONSTRUCTION LIEN ACT, 1980 PA 497, MCL 570.1110.

Subscribed and sworn to before me on  
(date) \_\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_ County, Michigan.

My commission expires: \_\_\_\_\_



## PARTIAL UNCONDITIONAL WAIVER

I / we have a contract with Clark Construction Company to provide work per contract and change orders for the improvement to the property described as:

Clark Job #, Contract #, Project Description

and hereby waive my/our construction lien to the amount of \$0.00  
( \$0.00 cumulative total paid to date) for labor and / or materials provided through \_\_\_\_\_. This Partial Unconditional Waiver is a waiver and release of any and all claims arising out of work performed on the project through the date of \_\_\_\_\_.

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

Subscribed and sworn to before me

By: \_\_\_\_\_  
(Authorized Signature)

this \_\_\_\_\_ day of \_\_\_\_\_ 2002.

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

Address: \_\_\_\_\_  
\_\_\_\_\_

Notary Public: \_\_\_\_\_

My commission expires: \_\_\_\_\_

Telephone: \_\_\_\_\_

### **WARNING DO NOT SIGN BLANK OR INCOMPLETE FORMS, RETAIN A COPY**

NOTE: The following is supplied for informational purposes only and is not in limitation or modification of the above waiver.

Amount of Contract:	\$0.00
Previously Paid:	\$0.00
This Payment :	\$0.00
Balance of Contract:	\$0.00

***Please sign and return this waiver to:***  
**Clark Construction Company**  
**3535 Moores River Drive**  
**Lansing, MI 48911**





## FULL UNCONDITIONAL WAIVER

I / we have a contract with \_\_\_\_\_ Clark Construction Company \_\_\_\_\_ provide work per contract and change orders for the improvement to the property described as: \_\_\_\_\_

\_\_\_\_\_ *Clark job #, Contract #, Project description* \_\_\_\_\_

and having been fully paid and satisfied, all my/our construction lien rights against such property are hereby waived, released, and we release Clark Construction Company and the Owner in full, from any and all claims arising out of the Project.

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

Subscribed and sworn to before me

By: \_\_\_\_\_  
(Authorized signer)

this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
(Print or Type Name and Title of Signer)

Address: \_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

\_\_\_\_\_

My commission expires: \_\_\_\_\_.

Telephone: \_\_\_\_\_

**WARNING DO NOT SIGN BLANK OR INCOMPLETE FORMS, RETAIN A COPY**

***Please sign and return this waiver to:***

**Clark Construction Company  
3535 Moores River Drive  
Lansing, MI 48911**

Phone: (517) 372-0940  
Fax: (517) 372-0668

er

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h

## MATERIALS STORED PAYMENT FORM

Progress Payment Number \_\_\_\_\_ Bid Package No./Category \_\_\_\_\_ Description \_\_\_\_\_

1. The following items, if approved by the Owner, have been included in the above noted request for payment even though not yet incorporated into the work (attach additional sheets, if required):

<u>ITEM</u>	<u>STORED AT</u>	<u>VALUE PER ATTACHED INVOICE</u>
		<u>\$</u>
		<u>\$</u>
		<u>\$</u>
		<u>\$</u>
		<u>\$</u>

2. TOTAL VALUE OF THE ABOVE ITEMS PER ATTACHED INVOICE(S):

\$ \_\_\_\_\_

3. In addition to any insurance(s) the Owner may carry, the undersigned states that the above items are covered by Trade Contractor's property insurance against all risk and that said insurance will remain in effect until final acceptance of the completed project by the Owner. Trade Contractor must provide proof of insurance stating description, location and value of items stored.
4. The undersigned hereby represents and guarantees that full payment has been made for the above items, and provides proof of payment, and by signature below, contingent upon receipt of payment on account of the above items, the Trade Contractor hereby transfers title to the above items to the Owner of the project.
5. Stored Materials are to be roped off or separated from all others. Boxes or pieces must be clearly marked.
6. Owner and/or Construction Manager reserves the right to inspect stored material at any time.
7. Receipt of payment on account for the above items shall in no manner or in any degree relieve the Trade Contractor of any obligation under its contract, particularly, but not limited to, its obligations with regard to the warranties and guarantees.

Trade Contractor: \_\_\_\_\_

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

Signed: \_\_\_\_\_

Signature is by a member of firm or Corporation entitled to sign Contract documents for the Trade Contractor.

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



# LABOR RATE CALCULATIONS

TRADE: \_\_\_\_\_

## WAGES

Base Rate  
Vacation/Holiday  
Dues

## Taxable Wages

## Fringes

Health & Welfare  
Pension  
Annuity  
S.U.B.  
*Other:*

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

## Total Fringes

## Payroll Tax & Ins.

F.I.C.A.  
Medicare  
S.U.I.T.  
F.U.I.T.  
S.B.T.  
Worker's Compensation  
PL & PD Insurance

## Total Payroll Tax & Ins.

## Total Premium Cost

## Total Hourly Cost

Overhead & Profit (15%)

## Total Hourly Rate

STRAIGHT TIME	
JOURNEYMAN	FOREMAN

TIME & ONE HALF	
JOURNEYMAN	FOREMAN

DOUBLE TIME	
JOURNEYMAN	FOREMAN







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## FORM OF GUARANTEE

CLARK PROJECT NUMBER: \_\_\_\_\_

PROJECT NAME \_\_\_\_\_

LOCATION \_\_\_\_\_

NAME OF CONTRACTOR \_\_\_\_\_

CONTRACT FOR \_\_\_\_\_

We hereby agree that:

- a. We have completed our contract in full conformity with the intent of the contract documents and have made no substitutions in materials except as authorized in writing by the Architect.
- b. We will return to the project and commence work within three (3) working days of receipt of written notification from the Owner or the Architect and will provide at our expense all necessary labor, equipment and material to make proper repairs or corrections made necessary by defective materials or interior workmanship furnished or performed under contract, all to the satisfaction of the Owner and the Architect, and without cost to the Owner.
- c. This guarantee of our work and the work of all our subcontractors shall commence on \_\_\_\_\_ and remain in full force and effect \_\_\_\_\_ until \_\_\_\_\_.  
(Date of Substantial Completion) (Two Year)
- d. We hereby certify that all payrolls, material bills, and other indebtedness connected with the work on the subject project have been paid in full.

SIGNED \_\_\_\_\_  
(AUTHORIZED OFFICER)

WITNESS \_\_\_\_\_

DATE \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

**AIA<sup>®</sup>****Document G704/CMa<sup>™</sup> – 1992*****Certificate of Substantial Completion Construction Manager-Adviser Edition*****PROJECT:***(Name and address):***PROJECT NUMBER:****CONTRACT FOR:** General Construction**CONTRACT DATE:****TO CONTRACTOR:***(Name and address):*OWNER: ☐CONSTRUCTION MANAGER: ☐ARCHITECT: ☐CONTRACTOR: ☐FIELD: ☐OTHER: ☐**TO OWNER:***(Name and address)***DATE OF ISSUANCE:****PROJECT OR DESIGNATED PORTION SHALL INCLUDE:**

The Work performed under this Contract has been reviewed and found, to the Construction Manager's and Architect's best knowledge, information and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion thereof designated above is hereby established as \_\_\_\_\_ which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

**Warranty****Date of Commencement**

A list of items to be completed or corrected is attached hereto. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

\_\_\_\_\_  
**CONSTRUCTION MANAGER**\_\_\_\_\_  
**BY**\_\_\_\_\_  
**DATE**\_\_\_\_\_  
**ARCHITECT**\_\_\_\_\_  
**BY**\_\_\_\_\_  
**DATE**

The Contractor will complete or correct the Work on the list of items attached hereto within 0 days from the above date of Substantial Completion.

\_\_\_\_\_  
**CONTRACTOR**\_\_\_\_\_  
**BY**\_\_\_\_\_  
**DATE**

The Owner accepts the Work or designated portion thereof as substantially complete and will assume full possession thereof at \_\_\_\_\_  
(time) on \_\_\_\_\_ (date).

\_\_\_\_\_  
**OWNER**\_\_\_\_\_  
**BY**\_\_\_\_\_  
**DATE**

The responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance shall be as follows:

*(Note--Owner's and Contractor's legal and insurance counsel should determine and review insurance requirements and coverage.)*

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SECTION 007216  
GENERAL CONDITIONS

**1. GENERAL**

- 1.1. The Trade Contractor shall be bound to Clark Construction Company by the terms of all Contract Documents of Clark Construction Company's Contract with the Owner including, but not limited to Drawings, Specifications, General Conditions, Special and Supplemental Conditions and Addenda, and to assume toward Clark Construction Company all obligations and responsibilities that Clark Construction Company by said documents, assume toward the Owner. The Trade Contractor binds himself to Clark Construction Company for the performance of Trade Contractor's Work in the same manner as Clark Construction Company is bound to the Owner for such performance under the prime Contract. The prime Contract or the pertinent parts of such Contract will be made available upon Trade Contractor's request.
- 1.2. General Conditions of the Contract for Construction shall be a modified AIA Document A201 – 2007 (Enclosed).

END OF SECTION



# DRAFT AIA® Document A201™ – 2007

## General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

«Southgate Community School District

In accordance with the relevant Application for Preliminary Qualification of Bonds, the Owner's fixed budget, the approved plans and specifications, and as otherwise approved by the Owner»

### THE OWNER:

(Name and address)

«Southgate Community School District»

«14600 Dix-Toledo Road»

«Southgate, Michigan 48195»

### THE ARCHITECT:

(Name and address)

« »« »

« »

« »

### THE CONSTRUCTION MANAGER:

« »« »

« »

« »

References to the "Contractor" herein with respect to the Construction Phase shall be deemed to apply to the Construction Manager, and references to the Owner/Contractor Agreement shall refer to the Owner/Construction Manager Agreement, unless context suggests otherwise.

The inclusion of any reference to or use of the term "Construction Manager" in this document shall in no way be read to limit in any way the applicability of this document as provided in Owner-Construction Manager Agreement Section 1.3.

### TABLE OF ARTICLES

- |   |  |
|---|--|
| 1 | GENERAL PROVISIONS                               |
| 2 | OWNER  |
| 3 | CONTRACTOR                                       |
| 4 | ARCHITECT  |
| 5 | SUBCONTRACTORS                                   |
| 6 | CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS |
| 7 | CHANGES IN THE WORK                              |

### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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- 8 TIME
- 9 PAYMENTS AND COMPLETION
- 10 PROTECTION OF PERSONS AND PROPERTY
- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES



## INDEX

(Numbers and Topics in Bold are Section Headings)

### Acceptance of Nonconforming Work

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## ARTICLE 1 GENERAL PROVISIONS

### § 1.1 BASIC DEFINITIONS

#### § 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) **WHICH SHALL BE AWARDED BY THE OWNER AND THEN ASSIGNED OVER BY THE OWNER TO THE CONSTRUCTION MANAGER AFTER AWARD** and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement **IN WRITING**, the Contract Documents **ALSO** include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, **ACCEPTED PORTIONS OF** the Contractor's bid or proposal, **AND** portions of Addenda relating to bidding requirements. **THE EXECUTION OF THE CONTRACT SHALL CONSTITUTE ACCEPTANCE OF ALL PROVISIONS OF THE DRAWINGS, ADDENDA AND ALL CONTRACT DOCUMENTS.**

#### § 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate **THE CONTRACTOR'S** performance of **ITS** duties.

#### § 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### § 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

#### § 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

#### § 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### § 1.1.7 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

#### § 1.1.8 INITIAL DECISION MAKER

The Initial Decision Maker is the person identified in the Agreement to render initial decisions or interpretations, as applicable, on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

#### § 1.1.9 THE TERM "PRODUCT(S)" AS USED IN THE CONTRACT DOCUMENTS REFERS TO THE MATERIALS, SYSTEMS AND EQUIPMENT PROVIDED BY THE CONTRACTOR FOR USE IN THE WORK OF THE PROJECT.

§ 1.1.10 THE TERMS "WARRANTY" AND "GUARANTEE" AS USED IN THE CONTRACT DOCUMENTS SHALL HAVE THE SAME MEANING AND SHALL BE DEFINED AS "LEGALLY ENFORCEABLE ASSURANCE OF SATISFACTORY PERFORMANCE OR QUALITY OF A PRODUCT OR WORK."

§ 1.1.11 WHERE MATERIALS, SYSTEMS AND EQUIPMENT ITEMS ARE REFERRED TO IN THE SINGULAR, SUCH REFERENCE SHALL NOT SERVE TO LIMIT THE QUANTITY REQUIRED. THE CONTRACTOR SHALL FURNISH QUANTITIES AS REQUIRED BY THE CONTRACT DOCUMENTS TO COMPLETE THE WORK.

§ 1.1.12 UNLESS SPECIFICALLY LIMITED IN THE CONTRACT, THE WORDS "FURNISH," "INSTALL," AND "PROVIDE," OR ANY COMBINATION THEREOF, MEAN TO FURNISH AND INCORPORATE INTO THE WORK, INCLUDING ALL NECESSARY LABOR, MATERIALS, AND EQUIPMENT AND OTHER ITEMS REQUIRED TO PERFORM THE WORK INDICATED.

§ 1.1.13 THE PROJECT MANUAL IS A VOLUME ASSEMBLED FOR THE WORK WHICH MAY INCLUDE THE BIDDING REQUIREMENTS, SAMPLE FORMS, CONDITIONS OF THE CONTRACT AND SPECIFICATIONS.

## § 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. SHOULD THE DRAWINGS AND SPECIFICATIONS APPEAR TO BE IN DISAGREEMENT WITH EACH OTHER RELATIVE TO THE QUALITY OR QUANTITY OF WORK REQUIRED, THE BETTER QUALITY AND/OR THE GREATER QUANTITY SHALL GOVERN, AND SHALL BE PROVIDED, UNLESS INSTRUCTIONS ARE OTHERWISE FURNISHED TO THE CONTRACTOR BY THE ARCHITECT IN WRITING.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade. WHERE RESPONSIBILITY FOR PARTICULAR WORK IS REQUIRED OF THE CONTRACTOR, THE CONTRACTOR SHALL NOT BE RELEASED FROM THAT RESPONSIBILITY BY REASON OF THE LOCATION OF THE SPECIFICATION OR DRAWING INFORMATION WHICH ESTABLISHES THE RESPONSIBILITY. THUS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL WORK REQUIRED OF HIM, EVEN THOUGH THAT RESPONSIBILITY MAY BE SHOWN ONLY IN THAT PORTION OF THE DOCUMENTS TYPICALLY PERTAINING TO ANOTHER CONTRACTOR OR TRADE.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 IF THERE SHOULD BE A CONFLICT BETWEEN TWO OR MORE OF THE CONTRACT DOCUMENTS, THE ARCHITECT RESERVES THE RIGHT TO DETERMINE WHICH GOVERNS, CONSISTENT WITH THE FOLLOWING ORDER OF INTERPRETATION:

- .1 WHERE REQUIREMENTS SPECIFICALLY SET FORTH IN THE AGREEMENT ARE IN CONFLICT WITH OTHER CONTRACT DOCUMENTS, INCLUDING BUT NOT LIMITED TO THESE GENERAL CONDITIONS, THE AGREEMENT SHALL GOVERN.
- .2 IN ALL OTHER INSTANCES, THE CONFLICT SHALL BE RESOLVED BY COMPLYING WITH THE PROVISION THAT REQUIRES THE BETTER QUALITY OR GREATER QUANTITY OF WORK OR SERVICES TO THE OWNER AND/OR THE LESSER OBLIGATION FROM THE OWNER.
- .3 WHEN A DUPLICATE OF MATERIAL OR EQUIPMENT OCCURS IN THE DRAWINGS, THE SPECIFICATIONS OR OTHER CONTRACT DOCUMENTS, EACH CONTRACTOR SHALL BE DEEMED TO HAVE BID ON THE BASIS OF EACH FURNISHING SUCH MATERIAL OR EQUIPMENT. THE CONTRACTOR WILL DECIDE WHICH SUBCONTRACTOR(S) SHALL FURNISH THE SAME.

§ 1.2.5 IT IS THE INTENT OF THE CONTRACT DOCUMENTS TO ACCOMPLISH A COMPLETE AND FIRST-CLASS INSTALLATION IN WHICH THERE SHALL BE INSTALLED NEW PRODUCTS OF THE LATEST AND BEST DESIGN AND MANUFACTURE, AND WORKMANSHIP SHALL BE THOROUGHLY FIRST CLASS, EXECUTED BY COMPETENT AND EXPERIENCED WORKMEN.

- .1 DETAILS OF PREPARATION, CONSTRUCTION, INSTALLATION, AND FINISHING ENCOMPASSED BY THE CONTRACT DOCUMENTS SHALL CONFORM TO THE BEST PRACTICES OF THE RESPECTIVE TRADES, AND THAT WORKMANSHIP AND CONSTRUCTION METHODS SHALL BE OF FIRST CLASS QUALITY SO AS TO ACCOMPLISH A NEAT AND FIRST CLASS FINISHED JOB.

- .2 WHERE SPECIFIC RECOGNIZED STANDARDS ARE MENTIONED IN THE SPECIFICATIONS, IT SHALL BE INTERPRETED THAT SUCH REQUIREMENTS SHALL BE COMPLIED WITH.

**§ 1.2.6** THE CONTRACTOR ACKNOWLEDGES THAT THERE MAY BE ITEMS OF THE WORK, WHICH THE CONTRACTOR IS RESPONSIBLE TO PROVIDE UNDER THE AGREEMENT THAT ARE NOT DRAWN OR SPECIFIED IN THE DESIGN BUT ARE NECESSARY FOR THE PROPER EXECUTION AND COMPLETION OF THE WORK AND ARE CONSISTENT WITH AN REASONABLY INFERABLE FROM THE DRAWINGS AND SPECIFICATIONS. ALL SUCH ITEMS SHALL BE PROVIDED AS PART OF THE WORK WITHOUT DELAY IN ITS PROGRESS AND WITHOUT ANY INCREASE IN THE CONTRACT SUM OR GUARANTEED MAXIMUM PRICE.

### **§ 1.3 CAPITALIZATION**

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

### **§ 1.4 INTERPRETATION**

In the interest of brevity the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### **§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE**

**§ 1.5.1** The Architect and the Architect’s consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and unless otherwise indicated in the Contract Documents or the Owner/Architect Agreement, the Architect and the respective consultants will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect’s or Architect’s consultants’ reserved rights.

**§ 1.5.2** The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect’s consultants.

**§ 1.5.3** THE DRAWINGS, SPECIFICATIONS, AND OTHER DOCUMENTS AND ALL DATA USED IN COMPILING, AND THE RESULTS OF, ANY TESTS, SURVEYS OR INSPECTIONS AT THE PROJECT SITE, AS WELL AS ALL PHOTOGRAPHS, DRAWINGS, SPECIFICATIONS, SCHEDULES, DATA PROCESSING OUTPUT, COMPUTER-AIDED DESIGN/DRAFTING (CAD) SYSTEM DISKS/TAPES, COMPUTATIONS, STUDIES, AUDITS, REPORTS, MODELS AND OTHER ITEMS OF LIKE KIND, AND ALL INTELLECTUAL PROPERTY, PREPARED OR CREATED FOR OR IN CONNECTION WITH THE PROJECT AND REQUIRED BY THE OWNER, THE CONTRACTOR, OR A THIRD PARTY, BELONG TO THE OWNER. THE CONTRACTOR MAY RETAIN ONE CONTRACT RECORD SET. ALL COPIES OF THEM, EXCEPT CONTRACTOR’S RECORD SET, SHALL BE RETURNED OR SUITABLY ACCOUNTED FOR UPON COMPLETION OF THE WORK. THEY ARE FOR USE SOLELY WITH RESPECT TO THE PROJECT. THE CONTRACTOR SHALL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF THE OWNER, USE OR PERMIT ANYONE TO USE ANY DRAWINGS, SPECIFICATIONS, OR OTHER DOCUMENTS PREPARED FOR OR IN CONNECTION WITH THE PROJECT, OR ANY CONCEPTS OR IDEAS DEVELOPED IN CONNECTION WITH THE PROJECT, OR ANY CONCEPTS OR IDEAS DEVELOPED IN CONNECTION WITH THE PROJECT, FOR ANY PURPOSE OTHER THAN THE PROJECT. THE OWNER SHALL AT ALL TIMES HAVE ACCESS TO AND CONTROL OVER THE DISPOSITION OF ANY DRAWINGS, SPECIFICATIONS, AND OTHER DOCUMENTS PERTAINING TO THE PROJECT.

### **§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM**

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they may endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

## § 1.7: PROGRAM MANAGEMENT SOFTWARE

THE OWNER INTENDS TO UTILIZE A COLLABORATIVE PROGRAM MANAGEMENT WEB BASED PROJECT SOFTWARE TO ASSIST IN THE EFFICIENT COMMUNICATION OF ALL PROJECT INFORMATION TO PERTINENT TEAM MEMBERS. THE SELECTED E-BUILDER PLATFORM WILL BE UTILIZED FOR STORAGE OF ALL PERTINENT PROJECT CORRESPONDENCE (MEETING MINUTES, RFI'S, SUBMITTALS, DRAWING SET ISSUANCES, BULLETINS, ETC.) AS WELL AS FOR PAYMENT APPLICATION AND INVOICE PROCESSING, AND CHANGE MANAGEMENT APPROVALS. ALL FIRMS WILL BE REQUIRED TO PARTICIPATE IN E-BUILDER PLATFORM TRAINING AND SUBSEQUENT UTILIZATION OF THE SOFTWARE FOR THEIR RESPECTIVE ROLE AND INFORMATION TRANSFER THROUGHOUT THE PROJECT. THE OWNER WILL PAY FOR ONE COLLABORATIVE LICENSE FOR EACH VENDOR.

## ARTICLE 2 OWNER

### § 2.1 GENERAL

**§ 2.1.1** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization **SUBJECT TO PARAMETERS OF AUTHORITY ESTABLISHED BY THE OWNER'S BOARD OF EDUCATION**. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

**§ 2.1.2 NOT USED** ~~The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

### § 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

**§ 2.2.1** Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish, **AS APPLICABLE**, such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

**§ 2.2.2** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including, **BUT NOT LIMITED TO**, those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 2.2.3** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. **TAKING INTO ACCOUNT THE CONTRACTOR'S EXPERIENCE AND EXPERTISE**, the Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. **THE CONTRACTOR SHALL NOT BE ENTITLED TO ADDITIONAL COMPENSATION RESULTING FROM ITS FAILURE TO CONFIRM THE LOCATION OF READILY OBSERVABLE SITE UTILITIES OR EXISTING STRUCTURES PRIOR TO THE OPENING OF THE CONTRACTOR'S BID.**

**§ 2.2.4 UPON SPECIFIC WRITTEN REQUEST OF THE OWNER**, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. **CONTRACTS WITH OTHER CONTRACTORS ALONE SHALL NOT CONSTITUTE SUFFICIENT OWNER CONTROL FOR PURPOSES OF THIS SECTION.**

**§ 2.2.5** Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.



### § 2.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3. **THIS RIGHT SHALL BE IN ADDITION TO AND NOT IN LIMITATION OF THE OWNER'S RIGHTS UNDER ANY PROVISION OF THE CONTRACT DOCUMENTS.**

### § 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten~~-THREE-day period after receipt of written notice from the Owner **OR THE OWNER'S DESIGNEE** to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, **INCLUDING ANY CLAIM AGAINST THE CONTRACTOR'S PERFORMANCE BOND**, correct such deficiencies. **IN THE EVENT THE CONTRACTOR'S DEFAULT OR NEGLECT RESULTS IN A THREAT TO THE SAFETY OF PERSONS OR PROPERTY, THE CONTRACTOR SHALL IMMEDIATELY COMMENCE AND CONTINUE CORRECTION; OTHERWISE, THE OWNER MAY UNDERTAKE THE SAME ACTIONS AS PERMITTED IN THE PRIOR SENTENCE.** In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses, **INCLUDING ANY AND ALL LEGAL EXPENSES INCURRED TO EFFECTUATE AND ENFORCE THIS PROVISION**, and compensation for the Architect's **AND/OR OTHER CONTRACTOR'S** additional services made necessary by such default, neglect or failure. **IF THE CONTRACTOR DOES NOT AGREE TO A CHANGE ORDER AS DESCRIBED IN THE PRECEDING SENTENCE, THE OWNER MAY NEVERTHELESS WITHHOLD THE REASONABLE COST OF CORRECTING SUCH DEFICIENCIES AND THE EXPENSES IDENTIFIED IN THE PRECEDING SENTENCE (INCLUDING, BUT NOT LIMITED TO, ALL LEGAL EXPENSES INCURRED TO EFFECTUATE AND ENFORCE THIS PROVISION).** EXERCISE OF SUCH RIGHTS SHALL IN NO WAY LIMIT OR JEOPARDIZE THE OWNER'S RIGHT TO ANY CLAIM AGAINST THE PERFORMANCE BOND OR CONTRACTOR. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

**IN THE EVENT THE OWNER DIRECTS ANOTHER ENTITY TO PERFORM WORK PURSUANT TO THIS SECTION THAT OTHERWISE IS THE OBLIGATION OF THE CONTRACTOR, INCLUDING CORRECTION OF SAFETY VIOLATIONS, EITHER AT THE CONTRACTOR'S REQUEST OR AS A RESULT OF THE CONTRACTOR'S FAILURE TO PERFORM SUCH WORK, THAT OTHER ENTITY SHALL CHARGE THE CONTRACTOR ALL COSTS FOR LABOR, MATERIAL AND EQUIPMENT PLUS THAT OTHER ENTITY'S ADMINISTRATIVE, PROFIT AND OVERHEAD COSTS. THE CONTRACTOR SHALL PAY THAT OTHER ENTITY WITHIN TEN (10) DAYS OF THE DATE OF INVOICE. IF NOT PAID WITHIN TEN (10) DAYS, THE CONTRACTOR AUTHORIZES THE OWNER TO WITHHOLD THAT AMOUNT FROM THE CONTRACTOR AND TO PAY THE SAME TO THAT OTHER ENTITY FROM THE NEXT PAYMENT DUE THE CONTRACTOR. IF PAYMENTS THEN OR THEREAFTER DUE THE CONTRACTOR ARE NOT SUFFICIENT TO COVER SUCH AMOUNTS, THE CONTRACTOR SHALL PAY THE DIFFERENCE TO THE OWNER.**

## ARTICLE 3 CONTRACTOR

### § 3.1 GENERAL

**§ 3.1.1** The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

**§ 3.1.2** The Contractor shall perform the Work in accordance with the Contract Documents.

**§ 3.1.3** The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

**§ 3.1.4** **THESE GENERAL CONDITIONS REFER TO THE RELATIONSHIP BETWEEN THE OWNER AND CONTRACTOR. AS TO THE CONTRACT BETWEEN THE CONTRACTOR AND ITS SUBCONTRACTORS, THE GENERAL CONDITIONS SHALL BE READ AS**

THE CONTRACTOR HAVING THE POSITION OF THE OWNER AND THE SUBCONTRACTORS HAVING THE POSITION OF THE CONTRACTOR. THE SUBCONTRACTORS ARE BOUND TO THE CONTRACTOR JUST AS THE CONTRACTOR IS BOUND TO THE OWNER. THE SUBCONTRACTOR SHALL HAVE ALL THE RIGHTS, DUTIES AND OBLIGATIONS TO THE CONTRACTOR AS THE CONTRACTOR HAS RIGHTS, DUTIES AND OBLIGATIONS TO THE OWNER. THE SUBCONTRACTORS SHALL AGREE TO AND ACCEPT THE SAME RESPONSIBILITY TO THE OWNER AS THE CONTRACTOR. IN THE EVENT ANY FAILURE OF A SUBCONTRACTOR CAUSES ANY TYPE OF INJURY OR LOSS TO THE OWNER, DIRECT OR INDIRECT, THE CONTRACTOR SHALL BE JOINTLY AND SEVERALLY LIABLE TO THE OWNER FOR SUCH INJURY IN ADDITION TO ANY RESPONSIBILITY OR LIABILITY OF THE SUB-CONTRACTOR.

### **§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

**§ 3.2.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

**§ 3.2.3** The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require, **WITH A COPY OF SAME TO BE FORWARDED TO THE OWNER.**

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

**§ 3.2.5** **PRIOR TO SUBMITTING ITS BID, THE CONTRACTOR SHALL HAVE STUDIED AND COMPARED THE CONTRACT DOCUMENTS AND SHALL HAVE REPORTED TO THE ARCHITECT ANY ERROR, INCONSISTENCY OR OMISSION IN THE CONTRACT DOCUMENTS. IT WILL BE PRESUMED THAT THE CONTRACTOR'S BID AND THE CONTRACT SUM INCLUDE THE COST OF CORRECTING ANY SUCH ERROR, INCONSISTENCY OR OMISSION, WHICH COULD HAVE BEEN DISCOVERED BY THE EXERCISE OF REASONABLE DILIGENCE. UNLESS THE CONTRACTOR ESTABLISHES THAT SUCH ERROR, INCONSISTENCY OR OMISSION COULD NOT HAVE BEEN DISCOVERED BY THE EXERCISE OF REASONABLE DILIGENCE, THE CONTRACTOR WILL MAKE SUCH CORRECTIONS WITHOUT ADDITIONAL COMPENSATION SO THAT THE WORK IS FULLY FUNCTIONAL.**

### **§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means,



methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures. **THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ARCHITECT OF DELAYS OF ANY OTHER CONTRACTORS THAT COULD IMPACT TIMELY COORDINATION AND COMPLETION OF THE WORK.**

**§ 3.3.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

**§ 3.3.3** The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

### **§ 3.4 LABOR AND MATERIALS AND UTILITIES**

**§ 3.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. **SUCH PROVISION OF LABOR AND MATERIALS SHALL OCCUR IN SUFFICIENT TIME TO SATISFY THE EXISTING PROJECT SCHEDULE. THE CONTRACTOR BEARS THE RISK OF ANY FAILURE TO TIMELY PROVIDE SUCH LABOR AND MATERIALS FOR ANY REASON. THE CONTRACTOR AGREES TO EXECUTE THE APPROPRIATE UCC FORMS TO EFFECTUATE THE OWNER'S OWNERSHIP OF THE MATERIAL AND EQUIPMENT FURNISHED PURSUANT TO THIS AGREEMENT.**

**§ 3.4.2** Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

**§ 3.4.3** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

**§ 3.4.4** **THE CONTRACTOR AGREES THAT NEITHER HE NOR HIS SUBCONTRACTORS WILL DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT, TO BE EMPLOYED IN THE PERFORMANCE OF THIS CONTRACT, WITH RESPECT TO HIRE, TENURE, CONDITIONS OR PRIVILEGE OF EMPLOYMENT, OR ANY MATTER DIRECTLY OR INDIRECTLY RELATED TO EMPLOYMENT, BECAUSE OF RACE, AGE, SEX, COLOR, RELIGION, NATIONAL ORIGIN, ANCESTRY OR PHYSICAL DISABILITY. BREACH OF THIS COVENANT MAY BE REGARDED AS A MATERIAL BREACH OF THIS CONTRACT.**

**§ 3.4.5** **IMMEDIATELY AFTER "AWARD OF THE CONTRACT", THE CONTRACTOR SHALL PROVIDE ARCHITECT A LIST SHOWING THE NAME OF THE MANUFACTURER PROPOSED TO BE USED FOR EACH OF THE PRODUCT(S) IDENTIFIED IN THE SPECIFICATIONS AND, WHERE APPLICABLE, THE NAME OF THE INSTALLING SUBCONTRACTOR.**

**§ 3.4.6** **THE ARCHITECT WILL REPLY IN WRITING TO THE CONTRACTOR STATING WHETHER THE OWNER OR THE ARCHITECT, AFTER DUE INVESTIGATION, HAS REASONABLE OBJECTION TO ANY SUCH PROPOSAL. IF ADEQUATE DATA ON ANY PROPOSED MANUFACTURER OR INSTALLER IS NOT AVAILABLE, THE ARCHITECT MAY STATE THAT ACTION WILL BE DEFERRED UNTIL THE CONTRACTOR PROVIDES FURTHER DATA.**

**§ 3.4.7** **IN ALL CASES INVOLVING UTILITIES, UNLESS THE CONTRACT DOCUMENTS SPECIFICALLY PROVIDE OTHERWISE, IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO COORDINATE THE WORK WITH THE OWNERS OF SUCH UTILITIES, FOR THE PROTECTION OF SUCH UTILITIES AND FOR THE SAFETY ASSOCIATED WITH WORKING WITH OR IN THE VICINITY OF SUCH UTILITIES. THE CONTRACTOR SHALL COORDINATE ANY WORK REQUIRED BY PRIVATE AND/OR PUBLIC UTILITY COMPANIES TO PROVIDE UTILITIES TO THE WORK AND/OR SHALL COORDINATE RELOCATION OF UTILITIES AS REQUIRED BY THE WORK. ANY REFERENCE TO THE OWNER BEING RESPONSIBLE FOR THE COORDINATION OF, THE PAYING FOR, OR THE RELOCATION OF ANY UTILITY OR ASSOCIATED EQUIPMENT, WHICH IT DOES NOT OWN OR CONTROL, REQUIRES ONLY REASONABLE EFFORTS BY THE OWNER TO COORDINATE SUCH ACTIVITY.**

### § 3.4.8 ASBESTOS-FREE PRODUCT INSTALLATION

§ 3.4.8.1 IT IS HEREBY UNDERSTOOD AND AGREED THAT NO PRODUCT AND/OR MATERIAL CONTAINING ASBESTOS INCLUDING CHRYSOLITE, AMOSITE, CROCIDOLITE, TREMOLITE ASBESTOS, ANTHOPHYLLITE ASBESTOS, ACTINOLITE ASBESTOS AND ANY COMBINATION OF THESE MATERIALS THAT HAVE BEEN CHEMICALLY TREATED AND/OR ALTERED SHALL BE INSTALLED OR INTRODUCED INTO THE WORK BY THE CONTRACTOR OR HIS EMPLOYEES, AGENTS, SUBCONTRACTORS, OR OTHER INDIVIDUALS OR ENTITIES OVER WHOM THE CONTRACTOR HAS CONTROL. THE CONTRACTOR SHALL BE REQUIRED TO PROVIDE A SIGNED CERTIFICATION STATEMENT ENSURING THAT ALL PRODUCTS OR MATERIALS INSTALLED OR INTRODUCED INTO THE WORK ALL BE ASBESTOS-FREE.

§ 3.4.8.2 THE CONTRACTOR SHALL ALSO BE REQUIRED TO FURNISH CERTIFIED STATEMENTS FROM THE MANUFACTURERS OF SUPPLIED MATERIALS USED DURING CONSTRUCTION VERIFYING THEIR PRODUCTS TO BE ASBESTOS-FREE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 3.4.8.1.

§ 3.4.8.3 THE CONTRACTOR SHALL COMPLETE AND SUBMIT TO THE OWNER A CERTIFICATION EVIDENCING ASBESTOS-FREE PRODUCT INSTALLATION PRIOR TO ISSUANCE OF THE FINAL CERTIFICATE FOR PAYMENT, IN A FORM ACCEPTABLE TO THE OWNER.

### § 3.5 WARRANTY

IN ADDITION TO ANY OTHER WARRANTIES, GUARANTEES OR OBLIGATIONS SET FORTH IN THE CONTRACT DOCUMENTS OR APPLICABLE AS A MATTER OF A LAW, AND NOT IN LIMITATION OF THE TERMS OF THE CONTRACT DOCUMENTS, THE CONTRACTOR WARRANTS AND GUARANTEES THAT:

- .1 THE OWNER WILL HAVE GOOD TITLE TO THE WORK AND ALL MATERIALS AND EQUIPMENT INCORPORATED INTO THE WORK AND, UNLESS OTHERWISE EXPRESSLY PROVIDED IN THE CONTRACT DOCUMENTS, WILL BE NEW;
- .2 THE WORK AND ALL MATERIALS AND EQUIPMENT INCORPORATED INTO THE WORK WILL BE FREE FROM ALL DEFECTS, INCLUDING ANY DEFECTS IN WORKMANSHIP OR MATERIALS;
- .3 THE WORK AND ALL EQUIPMENT INCORPORATED INTO THE WORK WILL BE FIT FOR THE PURPOSE FOR WHICH THEY ARE INTENDED;
- .4 THE WORK AND ALL MATERIALS AND EQUIPMENT INCORPORATED INTO THE WORK WILL BE MERCHANTABLE; AND
- .5 THE WORK AND ALL MATERIALS AND EQUIPMENT INCORPORATED INTO THE WORK WILL CONFORM IN ALL RESPECTS TO THE CONTRACT DOCUMENTS.

UPON NOTICE OF THE BREACH OF ANY OF THE FOREGOING WARRANTIES OR GUARANTEES OR ANY OTHER WARRANTIES OR GUARANTEES UNDER THE CONTRACT DOCUMENTS, THE CONTRACTOR, IN ADDITION TO ANY OTHER REQUIREMENTS IN THE CONTRACT DOCUMENTS, WILL COMMENCE TO CORRECT SUCH BREACH WITHIN SEVENTY-TWO (72) HOURS AFTER WRITTEN NOTICE THEREOF AND THEREAFTER WILL USE ITS BEST EFFORTS TO CORRECT SUCH BREACH TO THE SATISFACTION OF THE OWNER; PROVIDED THAT IF SUCH NOTICE IS GIVEN AFTER FINAL PAYMENT HEREUNDER, SUCH SEVENTY-TWO (72) HOUR PERIOD SHALL BE EXTENDED TO SEVEN (7) DAYS. THE FOREGOING WARRANTIES AND OBLIGATIONS OF THE CONTRACTOR SHALL SURVIVE THE FINAL PAYMENT AND/OR TERMINATION OF THE CONTRACT. THE CONTRACTOR SHALL, AT THE TIME OF FINAL COMPLETION OF THE WORK AND AS A CONDITION PRECEDENT TO FINAL PAYMENT TO THE CONTRACTOR, ASSIGN TO THE OWNER ALL MANUFACTURERS' WARRANTIES RELATED TO THE MATERIALS AND LABOR USED IN THE WORK. THE CONTRACTOR FURTHER AGREES TO PERFORM THE WORK IN SUCH MANNER AS TO PRESERVE ANY AND ALL SUCH MANUFACTURERS' WARRANTIES AND DELIVER TO THE ARCHITECT THE WARRANTIES, PROJECT MANUALS, OPERATING PROCEDURES, AND OTHER MATERIALS RELATED TO EACH OF THE BUILDING SYSTEMS AND MATERIALS INCLUDED IN THE CONTRACTOR'S WORK AND AS REQUIRED BY THE SPECIFICATIONS.

### § 3.6 TAXES

THE CONTRACTOR SHALL PAY SALES, CONSUMER, USE AND SIMILAR TAXES FOR THE WORK PROVIDED BY THE CONTRACTOR THAT ARE LEGALLY ENACTED WHEN BIDS ARE RECEIVED OR NEGOTIATIONS CONCLUDED, WHETHER OR NOT YET EFFECTIVE OR MERELY SCHEDULED TO GO INTO EFFECT. THE CONTRACTOR SHALL PAY ALL STATE AND FEDERAL TAXES LEVIED ON ITS BUSINESS, INCOME OR PROPERTY AND SHALL MAKE ALL CONTRIBUTIONS FOR SOCIAL SECURITY AND OTHER WAGE OR PAYROLL TAXES. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR SUCH PAYMENTS AND SHALL INDEMNIFY THE OWNER AND HOLD IT HARMLESS FROM SAME.

### § 3.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

**§ 3.7.1** ~~Unless otherwise provided in the Contract Documents,~~ The Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

**§ 3.7.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

**§ 3.7.3** If the Contractor performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

**§ 3.7.4 Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide **WRITTEN AND DATED** notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Owner and Architect determine that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, they will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner and Architect determine that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Contractor in writing, stating the reasons. If Contractor disputes the determination or recommendation, the Contractor shall proceed as provided in Article 15. The Contractor shall be alert to any indication or evidence of existing underground or concealed utilities or structures not shown on the Contract Documents and shall immediately notify the Owner of discovery of such evidence. If the Contractor encounters such utilities or structures, it shall cease operations immediately to minimize damage and shall notify the Owner and Architect. The Contractor shall bear the cost of damage resulting from its failure to exercise reasonable care in its construction activity or from continuing operations without notifying the Owner.

**§ 3.7.4.1** **THE CONTRACTOR BIDDING ON THE WORK IS RESPONSIBLE FOR VISITING THE SITE AND DETERMINING ALL LOCAL CONDITIONS THAT MAY IN ANY WAY AFFECT ITS WORK.**

**§ 3.7.5** If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall ~~notify~~ **PROVIDE WRITTEN AND DATED NOTIFICATION TO** the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features ~~may~~ **SHALL** be made, **AS NEEDED**, as provided in Article 15.

### § 3.8 ALLOWANCES

**§ 3.8.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

**§ 3.8.2** Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

- 3 Whenever costs are ~~more than or~~ less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

### § 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. ~~THE SUPERINTENDENT SHALL BE SATISFACTORY TO THE OWNER IN ALL RESPECTS, AND THE OWNER SHALL HAVE THE RIGHT TO REQUIRE THE CONTRACTOR TO REMOVE ANY SUPERINTENDENT FROM THE PROJECT WHOSE PERFORMANCE IS NOT SATISFACTORY TO THE OWNER AND TO REPLACE SUCH SUPERINTENDENT WITH A SUPERINTENDENT WHO IS SATISFACTORY TO THE OWNER.~~

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The ~~OWNER AND/OR~~ Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the ~~OWNER AND/OR~~ Architect requires additional time to review. ~~Failure of the Architect to reply within the 14 day period shall constitute notice of no reasonable objection.~~

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, except with a superintendent who is satisfactory to the Owner.

### § 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work. ~~IN NO EVENT SHALL THE CONTRACTOR'S CONSTRUCTION SCHEDULE BE EXTENDED DUE TO ACTION OR INACTION OF THE CONTRACTOR, EXCEPT WITH PRIOR WRITTEN APPROVAL OF THE OWNER WITHIN THE OWNER'S SOLE DISCRETION.~~

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the ~~OWNER'S AND~~ Architect's approval, ~~WHICH The Architect's approval shall not unreasonably be delayed or withheld.~~ The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, (2) allow ~~the Architect~~ for a reasonable ~~AMOUNT OF~~ time to review submittals, ~~AND (3) SHALL PROVIDE FOR EXPEDITIOUS AND PRACTICAL EXECUTION OF THE WORK.~~ If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent ~~APPROVED PROJECT~~ schedules ~~AND THE MOST RECENT WORK SCHEDULE~~ submitted to the Owner and Architect ~~CONSISTENT THEREWITH.~~

§ 3.10.4 ~~IN NO EVENT SHALL THE CONTRACTOR'S CONSTRUCTION SCHEDULE BE EXTENDED DUE TO ACTION OR INACTION OF THE CONTRACTOR, EXCEPT WITH PRIOR WRITTEN APPROVAL OF THE OWNER WITHIN THE OWNER'S SOLE DISCRETION.~~

§ 3.10.5 ~~PROGRESS MEETINGS: MEETINGS OF REPRESENTATIVES OF THE VARIOUS CONTRACTORS AND TRADES WILL BE HELD FOR THE PURPOSE OF COORDINATION AND FURTHERING THE PROGRESS OF THE WORK. CONTRACTOR AND SUBCONTRACTOR ATTENDANCE IS MANDATORY. MEETINGS SHALL BE HELD AT REGULAR INTERVALS AS PROVIDED IN THE GENERAL REQUIREMENTS; SPECIAL MEETINGS MAY BE HELD IF DEEMED NECESSARY BY THE OWNER, CONTRACTOR AND ARCHITECT/ENGINEER.~~

**§ 3.10.6** THE CONSTRUCTION MANAGER AND CONTRACTOR SHALL PROCEED STRICTLY (NOT SUBSTANTIALLY) IN ACCORDANCE WITH THE CRITICAL PATH SET FORTH IN THE CONSTRUCTION SCHEDULE. THE CONTRACTOR SHALL MONITOR THE PROGRESS OF THE WORK FOR CONFORMANCE WITH THE REQUIREMENTS OF THE CONSTRUCTION SCHEDULE AND SHALL PROMPTLY ADVISE THE OWNER OF ANY DELAYS OR POTENTIAL DELAYS. IF ANY PROGRESS REPORT INDICATES ANY DELAYS, THE CONSTRUCTION MANAGER SHALL PROPOSE AN AFFIRMATIVE PLAN TO CORRECT THE DELAY, INCLUDING OVERTIME AND/OR ADDITIONAL LABOR, IF NECESSARY. IN NO EVENT SHALL ANY PROGRESS REPORT CONSTITUTE AN ADJUSTMENT OF THE CONTRACT TIME OR ANY MILESTONE DATE OR THE GUARANTEE MAXIMUM TIME UNLESS ANY SUCH ADJUSTMENT IS AGREED TO BY THE OWNER AND AUTHORIZED PURSUANT TO A CHANGE ORDER.

### **§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE**

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

### **§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

**§ 3.12.1** Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor FOR SUBMITTAL TO AND REVIEW BY THE ARCHITECT to illustrate some portion of the Work.

**§ 3.12.2** Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor FOR SUBMITTAL TO AND REVIEW BY THE ARCHITECT to illustrate materials or equipment for some portion of the Work. ALL WORK SHALL BE FURNISHED AND INSTALLED IN ACCORDANCE WITH THE DRAWINGS, SPECIFICATIONS AND AS ADDITIONALLY REQUIRED BY THE MANUFACTURER'S PRINTED INSTRUCTIONS. THE CONTRACTOR SHALL REVIEW THE MANUFACTURER'S INSTRUCTIONS, AND WHERE CONFLICT OCCURS BETWEEN THE DRAWINGS OR SPECIFICATIONS AND THE MANUFACTURER'S INSTRUCTIONS, THE CONTRACTOR SHALL REQUEST CLARIFICATION FROM THE ARCHITECT PRIOR TO COMMENCING THE WORK.

**§ 3.12.3** Samples are physical examples FOR SUBMITTAL TO AND REVIEW BY THE ARCHITECT that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

**§ 3.12.4** Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

**§ 3.12.5** The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

BECAUSE THE SCHEDULE DOES NOT ALLOW FOR THE RESUBMISSION OF ANY SHOP DRAWING, PROJECT DATA, SAMPLE OR SIMILAR SUBMITTALS, THE CONTRACTOR AGREES TO ENSURE THAT ITS FIRST SUBMISSIONS SHALL COMPLY WITH ALL THE REQUIREMENTS OF THE CONTRACT DOCUMENTS. IT IS FURTHER AGREED THAT IF, FOR WHATEVER REASON, ANY SHOP DRAWING, PROJECT DATA, SAMPLE, AND SIMILAR SUBMITTALS REQUIRE MORE THAN ONE RESUBMISSION TO SECURE THE APPROVAL OF THE ARCHITECT, THE CONTRACT AMOUNT MAY BE REDUCED BY (I) THE AMOUNT OF THE ACTUAL DELAY DAMAGES CHARGED OR SUFFERED BY THE OWNER, BUT IN ANY EVENT NOT LESS THAN \$1,000 PER DAY, PLUS (II) THE ACTUAL COST OF THE ARCHITECT'S REVIEW(S) FOR EACH SUBSEQUENT RESUBMISSION NECESSARY TO SECURE THE AFOREMENTIONED APPROVAL(S). IN ADDITION, THE CONTRACTOR AGREES TO HOLD THE OWNER HARMLESS FROM AND BEAR THE COSTS FOR ANY DELAY, GOOD FAITH REJECTION OF OR RESULTING FROM ANY SHOP DRAWING, PROJECT DATA, SAMPLE OR SIMILAR SUBMITTAL BY ARCHITECT.



**§ 3.12.6** By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

**§ 3.12.7** The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

**§ 3.12.8** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's **REVIEW AND** approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in **DETAILED** writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

**§ 3.12.9** The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

### **§ 3.13 USE OF SITE**

**§ 3.13.1** The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

**§ 3.13.2** ANYTHING CONTAINED IN THE CONTRACT DOCUMENTS TO THE CONTRARY NOTWITHSTANDING, NO ONE EXCEPT THE OWNER SHALL BE PERMITTED TO DISRUPT THE OPERATION OF ANY BUILDING SYSTEM OR ANY OTHER SERVICES WITHOUT THE OWNER'S PRIOR WRITTEN CONSENT. ANY REQUEST TO PERFORM SUCH WORK SHALL BE IN WRITING, RECEIVED BY THE OWNER NO LESS THAN FIVE (5) DAYS PRIOR TO THE COMMENCEMENT OF THE REQUESTED DISRUPTION, AND SHALL DETAIL (i) THE EXACT NATURE AND DURATION OF SUCH INTERRUPTION, (ii) THE AREA AFFECTED, AND (iii) ANY IMPACT UPON THE CONSTRUCTION SCHEDULE CAUSED BY SUCH PROPOSED TEMPORARY DISRUPTION. EXCEPT IN THE CASE OF EXTRAORDINARY MEASURES, ALL WORK SHALL BE PERFORMED DURING THE HOURS AND ON THE DAYS SET FORTH IN THE SPECIFICATIONS. THE CONTRACTOR'S FAILURE TO COMPLY WITH THE NOTICE PROVISIONS OF THIS SECTION SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT IT MAY HAVE

TO AN ADJUSTMENT OF ITS COMPENSATION, OR THE CONSTRUCTION TIME, ON ACCOUNT OF ANY POSTPONEMENT, RESCHEDULING, OR OTHER DELAYS ORDERED BY THE OWNER IN CONNECTION WITH ANY WORK AFFECTING A CRITICAL SERVICE FOR WHICH APPROPRIATE NOTICE WAS NOT FURNISHED.

**§ 3.13.3** THE CONTRACTOR WILL CONSULT WITH THE OWNER AND THE OWNER'S REPRESENTATIVE CONCERNING ANY NECESSARY OPERATIONS AT THE PROJECT SITE, INCLUDING STAGING AREA LIMITS, OFFICE OR STORAGE TRAILER LOCATIONS, DUMPSTER OPERATIONS, EQUIPMENT AND MATERIAL DELIVERIES, HOISTING AREAS AND ANY OTHER CONSTRUCTION IMPACTS ON THE OWNER'S GROUNDS.

### **§ 3.14 CUTTING AND PATCHING**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

### **§ 3.15 CLEANING UP**

**§ 3.15.1** The Contractor ~~AND ITS SUBCONTRACTORS UNDER CONTRACTOR'S DIRECTION~~, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

**§ 3.15.3** ANY AREAS AND/OR CONCURRENTLY OCCUPIED SPACE BOTH OCCUPIED BY THE OWNER AND USED IN THE PROGRESS OF THE WORK, BOTH WITHIN THE LIMITS OF THE CONSTRUCTION SITE AND THE ADJACENT AREAS LEADING TO IT, SHALL BE MAINTAINED, OPENED TO TRAVEL AND KEPT IN A CLEAN CONDITION. FAILURE BY THE CONTRACTOR TO MAINTAIN SAID AREAS WILL RESULT IN THE OWNER'S CLEANING OF SAME, AT THE EXPENSE OF THE CONTRACTOR.

**§ 3.15.4** IN ADDITION TO REMOVAL OF RUBBISH, THE CONTRACTOR AND ITS SUBCONTRACTORS, UNDER CONTRACTOR'S DIRECTION, SHALL REPLACE ANY BROKEN GLASS, REMOVE STAINS, SPOTS, MARKS, AND DIRT FROM DECORATED WORK, CLEAN HARDWARE, AND/OR REMOVE SPOTS AND SMEARS FROM ALL SURFACES WHICH WERE AFFECTED BY THE WORK.

### **§ 3.16 ACCESS TO WORK**

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

### **§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS**

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and ~~INDEMNIFY AND HOLD HARMLESS~~ hold the Owner and Architect from ~~ANY AND ALL COST, DAMAGE, OR~~ loss on account thereof, ~~INCLUDING, BUT NOT LIMITED TO, ACTUAL ATTORNEYS FEES~~, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect. ~~THE REVIEW BY THE OWNER OR ARCHITECT OF ANY METHOD OF CONSTRUCTION, INVENTION, APPLIANCE, PROCESS, ARTICLE, DEVICE OR MATERIALS OF ANY KIND SHALL BE FOR ITS ADEQUACY IN THE WORK AND SHALL NOT BE AN APPROVAL FOR THE USE THEREOF BY THE CONTRACTOR IN VIOLATION OF ANY PATENT OR OTHER RIGHTS OF ANY THIRD PERSON.~~

### § 3.18 INDEMNIFICATION

**§ 3.18.1** To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work OR THE DUTIES OR OBLIGATIONS OF THE OWNER/CONSTRUCTION MANAGER AGREEMENT, THESE GENERAL CONDITIONS OR THE FAILURE OF THE CONTRACTOR OR THE WORK TO CONFORM WITH THE CONTRACT DOCUMENTS, CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT OR WRONGFUL ACTS OR OMISSIONS OF THE CONTRACTOR (including, but not limited to, the Contractor's breach of the Agreement), A SUBCONTRACTOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS OF ANY OF THEM MAY BE LIABLE, TO THE FULLEST DEGREE OF CONTRACTOR'S FAULT, ON A COMPARATIVE BASIS (OR THE FAULT OF ANY OTHERS FOR WHOM THE CONTRACTOR IS RESPONSIBLE). THE CONTRACTOR SHALL BE RESPONSIBLE TO THE OWNER, ARCHITECT, ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM FROM AND AGAINST ALL AMOUNTS SUCH PARTIES MAY BE REQUIRED TO PAY IN ATTORNEY FEES IN ORDER TO PURSUE ENFORCEMENT OF THIS PROVISION AGAINST THE CONTRACTOR OR OTHERWISE OBTAIN INDEMNIFICATION FROM THE CONTRACTOR PROVIDED UNDER THE TERMS OF THIS ARTICLE. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE OR REDUCE ANY OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO ANY PARTY OR PERSON SET FORTH IN THIS SECTION. TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL INDEMNIFY THE OWNER AND SAVE THE OWNER HARMLESS AGAINST ALL LOSS BY FINES, PENALTIES OR CORRECTIVE MEASURES RESULTING FROM ACTS OF THE CONTRACTOR OR OMISSIONS BY THE CONTRACTOR, ITS SUBCONTRACTORS, AGENTS, EMPLOYEES OR ASSIGNS, WITH RESPECT TO THE VIOLATION OF SAFETY REQUIREMENTS OF THIS CONTRACT, INCLUDING REASONABLE ATTORNEY FEES.

**§ 3.18.2** IN ADDITION TO AND NOT IN LIMITATION OF THE CONTRACTOR'S OTHER INDEMNITY OBLIGATIONS, THE CONTRACTOR HEREBY ACCEPTS AND ASSUMES EXCLUSIVE LIABILITY FOR AND SHALL INDEMNIFY, PROTECT AND SAVE HARMLESS THE OWNER, ARCHITECT FROM AND AGAINST THE PAYMENT OF THE FOLLOWING:

ALL CONTRIBUTIONS, TAXES OR PREMIUMS (INCLUDING INTEREST AND PENALTIES THEREON) WHICH MAY BE PAYABLE UNDER THE UNEMPLOYMENT INSURANCE LAW OF ANY STATE, THE FEDERAL SOCIAL SECURITY ACT, FEDERAL, STATE, COUNTY AND/OR MUNICIPAL TAX WITHHOLDING LAWS, OR ANY OTHER LAW, MEASURED UPON THE PAYROLL OF OR REQUIRED TO BE WITHHELD FROM EMPLOYEES BY WHOMSOEVER EMPLOYED, ENGAGED IN THE WORK TO BE PERFORMED AND FURNISHED UNDER THIS CONTRACT;

ALL SALES, USE, PERSONAL PROPERTY AND OTHER TAXES (INCLUDING INTEREST AND PENALTIES THEREON) REQUIRED BY ANY FEDERAL, STATE, COUNTY, MUNICIPAL OR OTHER LAW TO BE PAID OR COLLECTED BY THE CONTRACTOR OR ANY OF ITS SUBCONTRACTORS OR VENDORS OR ANY OTHER PERSON OR PERSONS ACTING FOR, THROUGH OR UNDER IT OR ANY OF THEM, BY REASON OF THE PERFORMANCE OF THE WORK OR THE ACQUISITION, OWNERSHIP, FURNISHING, OR USE OF ANY MATERIALS, EQUIPMENT, SUPPLIES, LABOR, SERVICES OR OTHER ITEMS FOR OR IN CONNECTION WITH THE WORK; AND

ALL PENSION, WELFARE, VACATION, ANNUITY AND OTHER BENEFIT CONTRIBUTIONS PAYABLE UNDER OR IN CONNECTION WITH RESPECT TO ALL PERSONS BY WHOMSOEVER EMPLOYED, ENGAGED IN THE WORK TO BE PERFORMED AND FURNISHED UNDER THIS CONTRACT.

THE CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD THE OWNER HARMLESS FROM ANY CLAIM, DAMAGE, LOSS OR EXPENSE, INCLUDING BUT NOT LIMITED TO ACTUAL ATTORNEY FEES, INCURRED BY THE OWNER RELATED TO ANY HAZARDOUS MATERIAL OR WASTE, TOXIC SUBSTANCE, POLLUTION OR CONTAMINATION BROUGHT INTO THE PROJECT SITE OR CAUSED BY THE CONTRACTOR OR USED, HANDLED, TRANSPORTED, STORED, REMOVED, REMEDIATED, DISTURBED OR DISPERSED OF BY CONTRACTOR.

IN ACCORDANCE WITH THE JUNE 5, 1997, DECISION BY THE SIXTH CIRCUIT COURT OF APPEALS, MICHIGAN PREVAILING WAGE RATES ARE VALID AND ENFORCEABLE. ALL CONTRACTORS MUST COMPLY WITH THE MICHIGAN PREVAILING WAGE ACT. CURRENT PREVAILING WAGE RATES ARE PUBLISHED BY THE MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES. BIDDERS ARE RESPONSIBLE FOR OBTAINING AND COMPLYING WITH THE CURRENT APPLICABLE RATES DURING THE COURSE OF THE WORK. THE CONTRACTOR SHALL PAY THE PREVAILING WAGE AND FRINGE BENEFITS IN ACCORDANCE WITH MICHIGAN ACT NO. 166, PUBLIC ACTS OF 1965, AS AMENDED, FOR CONTRACTS PERFORMED ON PROJECTS FUNDED BY OR UPON THE CREDIT OF THE STATE OF MICHIGAN. IF THE



CONTRACTOR IS IN VIOLATION OF THE PREVAILING WAGE ACT, THAT WILL CONSTITUTE A MATERIAL BREACH OF THE CONTRACT, WARRANTING TERMINATION. THE CONTRACTOR SHALL BE FINANCIALLY RESPONSIBLE FOR THE PAYMENT OF PREVAILING WAGES BY ALL SUBCONTRACTORS CONTRACTED BY IT FOR WORK ON THE PROJECT.

**§ 3.18.3** IN THE EVENT THAT ANY CLAIM IS MADE OR ASSERTED, OR LAWSUIT FILED FOR DAMAGES OR INJURY ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE WORK, WHETHER OR NOT THE OWNER OR ARCHITECT IS NAMED AS A PARTY, THE CONTRACTOR SHALL IMMEDIATELY ADVISE THE OWNER AND ARCHITECT, IN WRITING, OF SUCH CLAIM OR LAWSUIT AND SHALL PROVIDE A FULL AND COMPLETE COPY OF ANY DOCUMENTS OR PLEADINGS THERETO, AS WELL AS A FULL AND ACCURATE REPORT OF THE FACTS INVOLVED.

## ARTICLE 4 ARCHITECT

### § 4.1 GENERAL

**§ 4.1.1** The ARCHITECT IS lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number. THE TERM "ARCHITECT," "ARCHITECT/ENGINEER," "ENGINEER," OR "DESIGN PROFESSIONAL" AS USED HEREIN MEANS THE ARCHITECT OR THE ARCHITECT'S AUTHORIZED REPRESENTATIVE.

**§ 4.1.2** Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

**§ 4.1.3** If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

### § 4.2 ADMINISTRATION OF THE CONTRACT

**§ 4.2.1** The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate For Payment AND WITH THE OWNER'S WRITTEN CONCURRENCE DURING THE CORRECTION PERIOD. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

**§ 4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise more frequently as agreed with the Owner or required by law, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Except as otherwise set forth herein, the Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

**§ 4.2.3** On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, WILL GUARD THE OWNER AGAINST DEFECTS AND DEFICIENCIES IN THE WORK, report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. EXCEPT AS REQUIRED BY THE OWNER/ARCHITECT AGREEMENT, the Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

### § 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the **OWNER AND** Architect or, in the absence of an approved submittal schedule, with reasonable promptness **AS TO CAUSE NO DELAY IN THE WORK** while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. **HOWEVER, SHOULD THE ARCHITECT DISCOVER DURING THE COURSE OF SUCH REVIEW ANY INACCURACIES, INCOMPLETENESS, OR OTHER IRREGULARITIES, THE ARCHITECT SHALL IMMEDIATELY NOTIFY THE OWNER OF THE SAME TO DETERMINE AN APPROPRIATE CORRECTIVE COURSE OF ACTION OR NOTIFY THE CONTRACTOR OF THE SAME TO CORRECT THE IRREGULARITIES.**

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine, **WITH THE OWNER'S CONCURRENCE**, the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret ~~and decide~~ matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness **GIVEN THE PARTICULAR CIRCUMSTANCES.**

§ 4.2.12 Interpretations ~~and decisions~~ of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations ~~and decisions~~, the Architect will endeavor to secure faithful performance by ~~faithful performance by both Owner and the Contractor will not show partiality to either~~ and will not be liable for results of interpretations or decisions rendered in good faith **AND WITHOUT NEGLIGENCE.**

§ 4.2.13 The Architect's **INTERPRETATIONS** on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

**§ 4.2.14** The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness **GIVEN THE PARTICULAR CIRCUMSTANCES**. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## **ARTICLE 5 SUBCONTRACTORS**

### **§ 5.1 DEFINITIONS**

**§ 5.1.1** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor. **THE TERM "SUBCONTRACTOR" SHALL ALSO INCLUDE MATERIAL AND EQUIPMENT SUPPLIERS. EACH AND EVERY SUBCONTRACT SHALL BE UNDERSTOOD TO HAVE THE OWNER AS A THIRD-PARTY BENEFICIARY, AND THE OWNER SHALL ENJOY ALL THIRD-PARTY BENEFICIARY RIGHTS PERMITTED BY LAW.**

**§ 5.1.2** A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

### **§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

**§ 5.2.1** Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish **SUPPLIES**, materials or equipment, **INCLUDING THOSE** fabricated to a special design) proposed for each principal portion of the Work. The Architect **WILL** reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. ~~Failure of the Owner or Architect to reply within the 14 day period shall constitute notice of no reasonable objection.~~ **ALL CONTRACTUAL AGREEMENTS WITH ADDITIONAL PERSONS OR ENTITIES SERVING AS A SUBCONTRACTOR SHALL EXPRESSLY IDENTIFY THE OWNER AS A THIRD-PARTY BENEFICIARY, AND THE OWNER SHALL ENJOY ALL THIRD-PARTY BENEFICIARY RIGHTS NOT PROHIBITED BY LAW.**

**§ 5.2.2** The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

**§ 5.2.3** If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, **DESPITE THE ARCHITECT'S OR OWNER'S REASONABLE OBJECTION**, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

**§ 5.2.4** The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution. **THE CONTRACTOR SHALL NOTIFY THE OWNER AND ARCHITECT OF ANY PROPOSED SUBSTITUTION A MINIMUM OF TEN DAYS PRIOR TO SUCH PROPOSED CHANGE.**

### **§ 5.3 SUBCONTRACTUAL RELATIONS**

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically

provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

#### **§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

**§ 5.4.1** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

**§ 5.4.2** Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall ~~shall~~ MAY be equitably adjusted for increases in cost resulting from the suspension. ~~AS NEGOTIATED BY THE PARTIES.~~

**§ 5.4.3** Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. ~~If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.~~

### **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

#### **§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS**

**§ 6.1.1** The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. ~~If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.~~ ~~THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING THE WORK WITH THE WORK OF OTHER CONTRACTORS, INCLUDING THE OWNER'S OWN FORCES OR SEPARATE CONTRACTORS, SO AS TO COMPLETE THE WORK IN ACCORDANCE WITH THE PROJECT TIME SCHEDULE.~~

**§ 6.1.2** When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

**§ 6.1.3** The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

**§ 6.1.4 NOT USED** ~~Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.~~

## § 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. ~~The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.~~

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor ~~wrongfully~~ causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

## § 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and ~~the Architect will~~ allocate the cost among those responsible. **THE OWNER'S RIGHT TO CLEAN UP SHALL IN NO EVENT BE DEEMED A DUTY, AND SHOULD THE OWNER CHOOSE NOT TO PURSUE THIS REMEDY, THE CONTRACTOR NECESSITATING SUCH ACTION SHALL REMAIN FULLY RESPONSIBLE FOR THE SAME.**

## ARTICLE 7 CHANGES IN THE WORK

### § 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, **ONLY** by Change Order, Construction Change Directive, **WRITTEN CONTRACT AMENDMENT**, or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive ~~requires agreement~~ **MAY BE ISSUED** by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone, **IF SO AUTHORIZED**.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

### § 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.



**§ 7.2.2** UNLESS EXPRESSLY STATED OTHERWISE IN THE CHANGE ORDER, AN AGREEMENT ON ANY CHANGE ORDER SHALL CONSTITUTE THE CONTRACTOR'S FINAL POSITION ON ALL MATTERS RELATING TO THE CHANGE IN THE WORK THAT IS SUBJECT TO THE CHANGE ORDER, INCLUDING, BUT NOT LIMITED TO, ALL DIRECT AND INDIRECT COSTS ASSOCIATED WITH SUCH CHANGE AND ANY AND ALL ADJUSTMENTS TO THE CONTRACT SUM AND THE CONTRACT TIME.

### **§ 7.3 CONSTRUCTION CHANGE DIRECTIVES**

**§ 7.3.1** A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

**§ 7.3.2** A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

**§ 7.3.3** If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one OR MORE of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.7.

HOWEVER, THE CONTRACT TIME SHALL BE ADJUSTED ONLY IF THE CONTRACTOR DEMONSTRATES TO THE OWNER THAT THE CHANGES IN THE WORK REQUIRED BY THE CONSTRUCTION CHANGE DIRECTIVE ADVERSELY AFFECT THE CRITICAL PATH OF THE WORK.

**§ 7.3.4** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted, UNLESS THE CONTRACTOR PROVIDED SUCH UNIT PRICES AS A PART OF A COMPETITIVE BID.

**§ 7.3.5** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time. CONTRACTOR AGREEMENTS TO A CONSTRUCTION CHANGE DIRECTIVE SHALL REQUIRE A FOLLOW-UP WRITING OR SIGNATURE AS CONTEMPLATED IN SECTION 7.3.6.

**§ 7.3.6** A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

**§ 7.3.7** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine, WITH THE OWNER'S APPROVAL, the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to A REASONABLE AMOUNT OF the following THAT ARE ACTUALLY INCURRED BY THE CONTRACTOR:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

**§ 7.3.8** The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

**§ 7.3.9** Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for **UNDISPUTED** Work completed under the Construction Change Directive in Applications for Payment. **FOR THOSE UNDISPUTED PORTIONS**, the Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost, **IF AGREED TO BY THE OWNER IN WRITING**, shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of ~~either party~~ **THE CONTRACTOR** to disagree and assert a Claim in accordance with Article 15.

**§ 7.3.10** When the Owner and Contractor agree **IN WRITING** with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments **IN WRITING**, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

**§ 7.3.11** **IN NO EVENT SHALL THE CONTRACTOR BE ENTITLED TO RECEIVE, AND THE CONTRACTOR HEREBY WAIVES THE RIGHT TO RECEIVE ANY PAYMENT OR ANY EXTENSION OF TIME FOR ADDITIONAL OR CHANGED WORK, WHETHER PARTIALLY OR FULLY COMPLETED OR SIMPLY PROPOSED, UNLESS SUCH ADDITIONAL WORK IS AUTHORIZED BY A WRITTEN CHANGE ORDER OR CONSTRUCTION CHANGE DIRECTIVE SIGNED BY THE OWNER, NOR SHALL THE CONTRACTOR BE OBLIGATED TO PROCEED WITH ANY SUCH WORK. ONLY THE OWNER SHALL HAVE THE RIGHT TO ISSUE A WRITTEN CHANGE ORDER OR CONSTRUCTIVE CHANGE DIRECTIVE TO THE CONTRACTOR AUTHORIZING AN ADDITION, DELETION OR OTHER REVISION IN THE SCOPE OF THE WORK AND/OR AN ADJUSTMENT IN THE CONTRACT SUM, GUARANTEED MAXIMUM PRICE OR THE CONSTRUCTION SCHEDULE.**

## **§ 7.4 MINOR CHANGES IN THE WORK**

The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

## **ARTICLE 8 TIME**

### **§ 8.1 DEFINITIONS**

**§ 8.1.1** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

**§ 8.1.2** The date of commencement of the Work is the date established in the Agreement.

**§ 8.1.3** The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

**§ 8.1.4** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

### **§ 8.2 PROGRESS AND COMPLETION**

**§ 8.2.1** Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for **OBTAINING ALL SUPPLIES, MATERIALS, TOOLS AND EQUIPMENT NECESSARY TO PERFORM THE WORK AND FOR PROPERLY** performing the Work.

**§ 8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be

furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

**§ 8.2.3** The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. ALL WORK SHALL BE COMPLETED IN SUFFICIENT TIME TO ALLOW FOR CLEAN UP AND PREPARATION FOR OWNER MOVE-IN PRIOR TO THE DATE OF SUBSTANTIAL COMPLETION.

**§ 8.2.4** WITHOUT ALTERING THE APPLICABILITY AND OBLIGATIONS OF SECTION 8.2.3, THE CONTRACTOR SHALL PROSECUTE THE WORK UNDERTAKEN IN A PROMPT AND DILIGENT MANNER WHEREVER SUCH WORK, OR ANY PART OF IT, BECOMES AVAILABLE, OR AT SUCH OTHER TIMES AS THE OWNER AND/OR ARCHITECT MAY DIRECT SO AS TO PROMOTE THE GENERAL PROGRESS OF THE ENTIRE CONSTRUCTION. THE CONTRACTOR SHALL NOT, BY DELAY OR OTHERWISE, INTERFERE WITH OR HINDER THE WORK OF ANY OTHER CONTRACTOR, THE OWNER, OR THE ARCHITECT. ANY SUPPLIES, MATERIALS, TOOLS AND/OR EQUIPMENT THAT ARE TO BE FURNISHED BY THE CONTRACTOR HEREUNDER SHALL BE FURNISHED IN SUFFICIENT TIME TO ENABLE THE CONTRACTOR TO PERFORM AND COMPLETE ITS WORK WITHIN THE TIME OR TIMES PROVIDED FOR HEREIN. IF THE CONTRACTOR, THROUGH ITS NEGLIGENCE OR FAILURE, INCLUDING THE NEGLIGENCE OR FAILURE OF ITS SUBCONTRACTORS OR SUPPLIERS, FAILS TO FURNISH THE NECESSARY LABOR AND/OR SUPPLIES, MATERIALS, TOOLS AND/OR EQUIPMENT TO MEET CONSTRUCTION NEEDS IN ACCORDANCE WITH THE ESTABLISHED SCHEDULE, THEN IT SHALL INCREASE ITS FORCES OR WORK SUCH OVERTIME AS MAY BE REQUIRED, AT ITS OWN EXPENSE, TO BRING ITS PART OF THE WORK UP TO THE PROPER SCHEDULE. IN THE EVENT THE CONTRACTOR FAILS TO TAKE SUCH ACTION NECESSARY TO BRING ITS PART OF THE WORK UP TO SCHEDULE WITHIN TWENTY-FOUR HOURS OF RECEIVING NOTICE FROM THE OWNER OR ARCHITECT, THEN THE OWNER, AT ITS SOLE OPTION, MAY SUPPLEMENT THE CONTRACTOR'S FORCES, MATERIALS AND/OR EQUIPMENT OR REMOVE THE CONTRACTOR FROM THE PROJECT, AND THE OWNER MAY COMPLETE PART OR ALL OF THE REMAINDER OF THE CONTRACTOR'S WORK, EITHER UTILIZING IN THE OWNER'S SOLE DISCRETION ITS OWN FORCES, NEW CONTRACTORS CHOSEN BY THE OWNER OR ANY SUBCONTRACTOR OR SUPPLIER OF THE CONTRACTOR, WHICH MAY INCLUDE FIXED PRICE SUPPLEMENTAL WORK TIME AND MATERIALS SUPPLEMENTAL WORK, OR ANY COMBINATION THEREOF, WHICH IN OWNER'S SOLE DISCRETION WILL MOST QUICKLY AND COMPLETELY CURE THE FAILURE OF THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY AND ALL COSTS OF PERFORMING OR COMPLETING THE WORK THAT ARE INCURRED BY THE OWNER OR ANY CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR OTHER ENTITY ON THE OWNER'S BEHALF. THE CONTRACTOR SHALL PAY THE OWNER FOR SUCH COSTS WITHIN TEN DAYS OF THE DATE OF INVOICE. IF NOT PAID WITHIN TEN DAYS, THE AMOUNT WILL BE WITHHELD FROM THE CONTRACTOR AND PAID TO THE OWNER FROM THE NEXT PAYMENT DUE THE CONTRACTOR UNDER THE AGREEMENT. EXERCISE OF SUCH RIGHTS SHALL IN NO WAY LIMIT OR JEOPARDIZE THE OWNER'S RIGHT TO ANY OTHER REMEDY, INCLUDING BUT NOT LIMITED TO A CLAIM AGAINST THE PERFORMANCE BOND OF THE CONTRACTOR.

### **§ 8.3 DELAYS AND EXTENSIONS OF TIME**

**§ 8.3.1** PROVIDED THE CONTRACTOR SUBMITS A WRITTEN REQUEST FOR AN EXTENSION NOT MORE THAN FOURTEEN DAYS AFTER THE OCCURRENCE THAT GIVES RISE TO THE DELAY, if the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by fire, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending LITIGATION, mediation OR arbitration, AS APPLICABLE; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine AND THE OWNER AGREES. FAILURE OF THE CONTRACTOR TO SUBMIT A TIMELY REQUEST FOR AN EXTENSION SHALL IRREVOCABLY WAIVE THE CONTRACTOR'S RIGHT TO SUCH AN EXTENSION OF TIME. IF THE CONTRACT TIME IS SUBJECT TO EXTENSION PURSUANT TO THIS SUBPARAGRAPH, SUCH EXTENSION SHALL BE THE EXCLUSIVE REMEDY OF THE CONTRACTOR AND THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER DAMAGES FROM THE OWNER.

**§ 8.3.2** Claims relating to time shall be made in accordance with applicable provisions of Article 15.

**§ 8.3.3** This Section 8.3 precludes recovery of damages for delay BY THE CONTRACTOR under other provisions of the Contract Documents.

### **§ 8.4 DELAY DAMAGE CLAIMS**

**§ 8.4.1** IF THE CONTRACTOR FAILS TO COMPLETE ITS WORK ON TIME RESULTING IN LOSS OR DAMAGE TO THE OWNER, WHETHER OR NOT LIQUIDATED DAMAGES ARE CALLED FOR IN THE CONTRACT DOCUMENTS, THE OWNER SHALL BE



ENTITLED TO RECOVER ANY DAMAGES CAUSED BY THE CONTRACTOR'S BREACH, INCLUDING OVERHEAD, PROFIT, EXTENDED GENERAL CONDITIONS, ACTUAL ATTORNEY FEES, ETC.

**§ 8.4.2** IN THE EVENT THE CONTRACTOR IS HINDERED IN THE COMMENCEMENT OR PROGRESS OF THE WORK BY SOMEONE OTHER THAN THE OWNER, AND IN THE EVENT THE CONTRACTOR CLAIMS DAMAGES AS A DIRECT AND PROXIMATE CONSEQUENCE THEREOF (INCLUDING, BUT NOT LIMITED TO, EXTENDED GENERAL CONDITIONS, OVERHEAD, PROFIT, OVERTIME, INTEREST, SUPERVISION OR OTHER COSTS OR PROFITS WHATSOEVER), THEN THE CONTRACTOR SHALL NOT ASSERT SUCH CLAIMS AGAINST THE OWNER, AND AS TO THE OWNER, THE CONTRACTOR'S CLAIMS OF DELAY DAMAGES ARE HEREBY WAIVED. THE CONTRACTOR'S SOLE AND EXCLUSIVE REMEDY REGARDING SUCH CLAIMS FOR SUCH DELAY DAMAGES SHALL BE TO PURSUE SUCH CLAIMS DIRECTLY AGAINST THE INDIVIDUAL OR ENTITY WHICH CAUSED THE DELAY.

FOR ANY DELAY CLAIMS RAISED AGAINST THE OWNER, THE CONTRACTOR'S SOLE AND EXCLUSIVE REMEDY IS AN EXTENSION OF TIME TO PERFORM THE WORK NOT TO EXCEED THE TIME FRAME OF ANY PROVEN DELAY. UNDER NO CIRCUMSTANCES IS THE CONTRACTOR ENTITLED TO MONETARY DELAY DAMAGES FROM THE OWNER.

**§ 8.4.3** IN THE EVENT OF ANY DELAY IN THE COMPLETION OF THE CONTRACTOR'S WORK OR SCHEDULING OF THE CONTRACTOR'S WORK, INCLUDING THE SEQUENCE OF THAT WORK WHICH IS ATTRIBUTABLE TO THE OWNER, AND IF IT IS DETERMINED BY A COURT OF COMPETENT JURISDICTION THAT THE OWNER IS LIABLE FOR SUCH DELAY DESPITE THE OTHER TERMS OF THIS CONTRACT BARRING ANY OWNER LIABILITY FOR DAMAGES FOR DELAY, THEN THE OWNER SHALL BE LIABLE TO THE CONTRACTOR FOR LIQUIDATED DAMAGES IN THE AMOUNT OF NOT TO EXCEED ONE HUNDRED DOLLARS PER DAY, MAXIMUM, WHICH SHALL INCLUDE ALL OF THE CONTRACTOR'S CLAIMS, INCLUDING BY WAY OF EXAMPLE, DELAYS, COMPRESSIONS OF SCHEDULE, LOST PRODUCTIVITY, LOST PROFITS, LOST OPPORTUNITIES, OUT OF SEQUENCE WORK, OVERHEAD, CROWDING, TOOLS, EQUIPMENT, RENTALS, ETC.

## ARTICLE 9 PAYMENTS AND COMPLETION

### § 9.1 CONTRACT SUM

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

### § 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, Before the first Application for Payment, **THE CONTRACTOR SHALL SUBMIT** a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

**§ 9.2.1** THE SCHEDULE OF VALUES SHALL BE PREPARED IN SUCH MANNER THAT THE VALUE ASSOCIATED FOR EACH MAJOR ITEM OF WORK AND EACH SUBCONTRACTED ITEM OF WORK IS SHOWN WITH MATERIALS AND LABOR INDICATED SEPARATELY ON AIA Document G702A, APPLICATION AND CERTIFICATE OF PAYMENT, CONTINUATION SHEET, OR OTHERWISE.

**§ 9.2.2** UNLESS OTHERWISE PROVIDED IN THE CONTRACT DOCUMENT, THE CONTRACTOR SHALL INCLUDE A SEPARATE ALLOCATION FOR PROJECT CLOSEOUT IN THE SCHEDULE OF VALUES. THE FOLLOWING SCHEDULED VALUES ARE NOT PART OF RETAINAGE, AND SHALL BE LISTED ON THE APPLICATION FOR PAYMENT;

AS-BUILT (RECORD DRAWINGS) DOCUMENTS	1.0% OF CONTRACT SUM OR GUARANTEED MAXIMUM PRICE
TRAINING AND O&M MANUALS	1.0% OF CONTRACT SUM OR GUARANTEED MAXIMUM PRICE
ATTIC STOCK MATERIALS	0.5% OF CONTRACT SUM OR GUARANTEED MAXIMUM PRICE
PUNCHLIST COMPLETION	2.0% OF CONTRACT SUM OR GUARANTEED MAXIMUM PRICE
WARRANTY AND GUARANTY DOCUMENTS	0.5% OF CONTRACT SUM OR GUARANTEED

MAXIMUM PRICE

### § 9.3 APPLICATIONS FOR PAYMENT

**§ 9.3.1** At least **FIFTEEN** days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the

Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents. THE FORM OF APPLICATION AND CERTIFICATE FOR PAYMENT SHALL BE AIA DOCUMENT G702, APPLICATION AND CERTIFICATION FOR PAYMENT, SUPPORTED BY AIA DOCUMENT G702A, CONTINUATION SHEET, UNLESS OTHERWISE AGREED BY THE OWNER. APPLICATIONS FOR PAYMENT ARE DUE TO THE OFFICE OF THE CONSTRUCTION MANAGER BY THE DESIGNATED DAY OF THE MONTH. APPLICATIONS FOR PAYMENT THAT ARE RECEIVED AFTER THE SPECIFIED DATE WILL NOT BE PROCESSED UNTIL THE FOLLOWING MONTH.

**§ 9.3.1.1** As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders. A REQUEST FOR PAYMENT OF SUMS RELATED TO WORK REGARDING CONSTRUCTION CHANGE DIRECTIVES SHALL, UNLESS QUALIFIED IN WRITING AT THE TIME OF REQUEST, CONSTITUTE FULL AND COMPLETE CONSENT TO THE CONSTRUCTION CHANGE DIRECTIVE(S) AND TO THE ISSUANCE OF A CHANGE ORDER.

**§ 9.3.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

**§ 9.3.1.3** THE CONTRACTOR SHALL SUBMIT WITH EACH MONTHLY APPLICATION FOR PAYMENT: (1) AN AFFIDAVIT THAT PAYROLLS, BILLS FOR MATERIALS AND EQUIPMENT, AND OTHER INDEBTEDNESS CONNECTED WITH THE WORK FOR WHICH THE PREVIOUS APPLICATION WAS SUBMITTED, AND FOR WHICH THE OWNER MIGHT IN ANY WAY BE RESPONSIBLE, HAVE BEEN PAID OR OTHERWISE SATISFIED, AND (2) A RELEASE OR WAIVER OF LIENS ARISING OUT OF THE CONTRACT FROM EACH CONTRACTOR AND/OR SUBCONTRACTOR, MATERIALMAN, SUPPLIER AND LABORER OR THE CONTRACTOR ADDRESSING ALL PREVIOUS APPLICATIONS FOR PAYMENT SUBMITTED FOR THE PROJECT.

**§ 9.3.1.4** THE CONTRACTOR MUST PROVIDE COPIES OF THE INSURANCE CERTIFICATES, BONDS, AND THE SAME FOR ALL OF THE SUBCONTRACTORS PRIOR TO SUBMITTING THE FIRST APPLICATION FOR PAYMENT.

**§ 9.3.2** Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. PAYMENT TO CONTRACTOR FOR MATERIALS STORED OFF SITE IS DISCOURAGED. WHEN CIRCUMSTANCES INDICATE THAT THE OWNER'S BEST INTEREST IS SERVED BY OFF-SITE STORAGE, THE CONTRACTOR SHALL MAKE WRITTEN REQUEST TO THE OWNER FOR APPROVAL TO INCLUDE SUCH MATERIAL COSTS IN HIS NEXT PROGRESS PAYMENT. THE CONTRACTOR'S REQUEST SHALL INCLUDE THE FOLLOWING INFORMATION:

- .1 A LIST OF THE FABRICATED MATERIALS CONSIGNED TO THE PROJECT (WHICH SHALL BE CLEARLY IDENTIFIED, GIVING THE PLACE OF STORAGE, TOGETHER WITH COPIES OF INVOICES AND REASONS WHY MATERIALS CANNOT BE DELIVERED TO THE SITE.
- .2 CERTIFICATION THAT ITEMS HAVE BEEN TAGGED FOR DELIVERY TO THE PROJECT AND THAT THEY WILL NOT BE USED FOR ANOTHER PURPOSE.
- .3 A LETTER FROM THE CONTRACTOR'S SURETY INDICATING AGREEMENT TO THE ARRANGEMENTS AND THAT PAYMENT TO THE CONTRACTOR SHALL NOT RELIEVE EITHER PARTY OF THEIR RESPONSIBILITY TO COMPLETE THE WORK.
- .4 EVIDENCE OF ADEQUATE INSURANCE COVERING THE MATERIAL IN STORAGE, WHICH SHALL NAME THE OWNER AS ADDITIONALLY INSURED.
- .5 COSTS INCURRED BY THE CONSTRUCTION MANAGER AND ARCHITECT TO INSPECT MATERIAL IN OFF-SITE STORAGE SHALL BE PAID BY THE CONTRACTOR.
- .6 SUBSEQUENT PAY REQUESTS SHALL ITEMIZE THE MATERIALS AND THEIR COST WHICH WERE APPROVED ON PREVIOUS PAY REQUESTS AND REMAIN IN OFF-SITE STORAGE.
- .7 WHEN A PARTIAL PAYMENT IS ALLOWED ON ACCOUNT OF MATERIAL DELIVERED ON THE SITE OF THE WORK OR IN THE VICINITY THEREOF OR UNDER POSSESSION AND CONTROL OF THE CONTRACTOR, BUT NOT YET

INCORPORATED THEREIN, SUCH MATERIAL SHALL BECOME THE PROPERTY OF THE OWNER, BUT IF SUCH MATERIAL IS STOLEN, DESTROYED OR DAMAGED BY CASUALTY BEFORE BEING USED, THE CONTRACTOR WILL BE REQUIRED TO REPLACE IT AT ITS OWN EXPENSE.

**§ 9.3.3** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

#### **§ 9.4 CERTIFICATES FOR PAYMENT**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect, **IN WRITING, TOGETHER WITH THE CERTIFICATION TO WHICH IT PERTAINS.** The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed, **UNLESS OTHERWISE REQUIRED BY THE CONTRACT OR LAW,** construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### **§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION**

**§ 9.5.1** The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied, **OR THE CONTRACTOR IN DEFAULT ON THE AGREEMENT;**
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents;
- .8 **THE WORK NOT HAVING PROGRESSED TO THE EXTENT SET FORTH IN THE APPLICATION FOR PAYMENT;**
- OR**
- .9 **REPRESENTATIONS OF THE CONTRACTOR ARE UNTRUE.**
- .10 **FAILING TO CONFORM TO PROJECT SCHEDULE**

- .11 DEFAULT IN THE PERFORMANCE OF ANY OBLIGATION TO OWNER UNDER ANOTHER CONTRACT
- .12 FAILURE TO PROVIDE SUFFICIENTLY SKILLED WORKERS.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.5.4 IF THE CONTRACTOR DISPUTES ANY DETERMINATION BY THE OWNER WITH REGARD TO ANY CERTIFICATE FOR PAYMENT, THE CONTRACTOR SHALL NEVERTHELESS CONTINUE TO EXPEDITIOUSLY PERFORM THE WORK AND SUCH DISPUTE SHALL PROVIDE NO BASIS FOR ANY MANNER OF SUSPENSION OF THE CONTRACTOR'S PERFORMANCE OF THE WORK.

## § 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 ~~Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4~~ THE OWNER MAY, IN ITS SOLE DISCRETION, AFTER PROVIDING CONTRACTOR WITH TEN (10) DAYS PRIOR WRITTEN NOTICE, MAKE DIRECT PAYMENTS TO THE CONTRACTOR'S SUBCONTRACTORS, MATERIAL MEN, LABORERS OR CLAIMANTS RELATING TO LABOR OR MATERIAL PROVIDED TO THE CONTRACTOR FOR WHICH THE CONTRACTOR HAS NOT PROVIDED A WAIVER OF LIEN, IN THE EVENT THE SUBCONTRACTORS, MATERIAL MEN, LABORERS OR CLAIMANTS THREATEN TO OR ACTUALLY CEASE PROVIDING LABOR AND/OR MATERIALS FOR THE PROJECT SUCH THAT, IN THE OWNER'S DETERMINATION, PROGRESS OF THE PROJECT AND THE PROJECT'S SCHEDULE ARE JEOPARDIZED. ALL PAYMENTS MADE PURSUANT TO THIS SECTION SHALL BE CONSIDERED THE SAME AS IF PAID DIRECTLY TO THE CONTRACTOR AND SHALL CONSTITUTE PARTIAL PAYMENT OF THE CONTRACT SUM. IN THE EVENT THE CONTRACTOR DISAGREES WITH THE AMOUNT PROPOSED TO BE PAID TO ONE OR MORE SUBCONTRACTORS, MATERIAL MEN, LABORERS OR CLAIMANTS, THE CONTRACTOR SHALL PROVIDE A BOND IN THE AMOUNT THE CONTRACTOR BELIEVES THE OWNER WILL OVERPAY, WITHIN TEN (10) DAYS OF RECEIPT OF NOTICE, OR BE BARRED FROM MAKING ANY CLAIM THAT THE AMOUNT OF THE DIRECT PAYMENT WAS INCORRECT. PAYMENT UNDER THIS PROVISION SHALL NOT JEOPARDIZE ANY OTHER REMEDY AVAILABLE TO THE OWNER.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by

the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

**§ 9.6.8** SUBJECT TO APPLICABLE LAW, IF A PETITION IN BANKRUPTCY OR ANY OTHER ARRANGEMENT OR PROCEEDING REGARDING INSOLVENCY, ASSIGNMENT FOR THE BENEFIT OF CREDITORS, TRUST, CHATTEL MORTGAGE, OR SIMILAR STATE OR FEDERAL PROCEEDING, WHETHER VOLUNTARY OR INVOLUNTARY, SHALL BE FILED WITH RESPECT TO THE CONTRACTOR, THE OWNER MAY WITHHOLD THE FINAL BALANCE, OR ANY OTHER PAYMENTS, WHETHER OR NOT AN APPLICATION FOR PROGRESS PAYMENT HAS BEEN PROPERLY FILED, UNTIL EXPIRATION OF THE PERIOD OF ANY GUARANTEES OR WARRANTIES REQUIRED FOR THE CONTRACTOR, AND THE OWNER MAY PAY OUT SUCH FUNDS THE AMOUNT NECESSARY TO SATISFY ANY CLAIMS OR COSTS THAT OTHERWISE WOULD HAVE BEEN COVERED BY SUCH GUARANTEES OR WARRANTIES.

### **§ 9.7 FAILURE OF PAYMENT**

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if **WITHOUT JUSTIFIABLE BASIS UNDER THE CONTRACT OR THESE GENERAL CONDITIONS (INCLUDING, WITHOUT LIMITATION, RECEIPT OF THE ARCHITECT'S CERTIFICATE FOR PAYMENT)**, the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the **UNDISPUTED** amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven **ASSERTED BY THE CONTRACTOR IN ITS APPLICATION FOR PAYMENT OR AWARDED BY A COURT, THEN THE CONTRACTOR MAY, UPON 21** additional days' written notice to the Owner and Architect, stop the Work until payment of the **UNDISPUTED** amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

### **§ 9.8 SUBSTANTIAL COMPLETION**

**§ 9.8.1** Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents **AND WHEN ALL REQUIRED OCCUPANCY PERMITS, IF ANY, HAVE BEEN ISSUED**, so that the Owner can occupy or utilize the Work for its intended use.

**§ 9.8.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

**§ 9.8.3** Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item **upon notification by the Architect IMMEDIATELY**. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

**§ 9.8.4** When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

**§ 9.8.5** The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.



**§ 9.8.6** NOTWITHSTANDING SECTIONS 9.8.1 AND 9.8.2, AS A CONDITION PRECEDENT TO ESTABLISHING THE DATE OF SUBSTANTIAL COMPLETION, THE CONTRACTOR SHALL PREPARE AND SUBMIT TO THE ARCHITECT A COMPREHENSIVE LIST OF ITEMS TO BE COMPLETED OR CORRECT (A "PUNCH LIST"). THE CONTRACTOR SHALL RESPOND IMMEDIATELY TO CORRECT WORK DEFICIENCIES AND/OR PUNCH LIST ITEMS. SHOULD THE CONTRACTOR FAIL TO MAKE CORRECTIONS IN A TIMELY FASHION, BUT NOT LATER THAN THIRTY (30) CALENDAR DAYS FROM THE DATE OF SUBSTANTIAL COMPLETION OR NOTIFICATION OF THE REQUIRED CORRECTIONS, WHICHEVER IS EARLIER, SUCH WORK MAY BE CORRECTED BY THE OWNER AT THE CONTRACTOR'S SOLE EXPENSE, AND THE CONTRACT SUM MAY BE ADJUSTED ACCORDINGLY.

**§ 9.8.7** THE CONTRACTOR SHALL PROMPTLY NOTIFY THE ARCHITECT, IN WRITING, WHEN THE WORK DEFICIENCIES AND/OR PUNCH LIST ITEMS ARE COMPLETED. UPON THE REVIEW OF THE WORK BY THE ARCHITECT AFTER SUCH NOTIFICATION BY THE CONTRACTOR, IF WORK DEFICIENCIES AND/OR PUNCH LIST ITEMS SHALL CONTINUE TO EXIST, THE CONTRACTOR SHALL REIMBURSE THE OWNER ITS COST PLUS TEN PERCENT (10%) OVERHEAD AND PROFIT ON ANY COST INCURRED BY THE OWNER, INCLUDING THE ARCHITECT'S FEES FOR REINSECTIONS OF THE WORK. FAILURE TO PAY SUCH COSTS WITHIN TEN (10) DAYS OF RECEIPT OF A DEMAND REGARDING THE SAME SHALL PERMIT THE OWNER TO PAY SUCH COSTS OUT OF RETAINAGE HELD BY THE OWNER ON THE CONTRACTOR'S CONTRACT.

### **§ 9.9 PARTIAL OCCUPANCY OR USE**

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, ~~provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.~~ **THE CONTRACTOR SHALL PROCEED WITH THE WORK IN SUCH A MANNER AS REASONABLY DIRECTED AND SHALL COOPERATE WITH THE OWNER TO LIMIT INTERRUPTIONS.**

**§ 9.9.2** Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

**§ 9.9.3** Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

**§ 9.9.4** ANY AGREEMENT AS TO THE ACCEPTANCE OF NON-CONFORMING WORK NOT COMPLYING WITH THE REQUIREMENTS OF THE CONTRACT DOCUMENTS, SHALL BE IN WRITING IN THE FORM OF A CHANGE ORDER, ACCEPTABLE TO THE OWNER'S AUTHORIZED REPRESENTATIVE AND SIGNED BY ALL PARTIES.

### **§ 9.10 FINAL COMPLETION AND FINAL PAYMENT**

**§ 9.10.1** Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the

Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) **AN AFFIDAVIT THAT STATES THE WORK IS FULLY COMPLETED AND PERFORMED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS**, (6) **IN THE EVENT OF CONTRACTOR BANKRUPTCY, AT THE OWNER'S OPTION, AN ORDER ENTERED BY THE COURT HAVING JURISDICTION OF THE CONTRACTOR'S INSOLVENCY PROCEEDING AUTHORIZING SUCH PAYMENT**; (7) **A GENERAL RELEASE EXECUTED BY THE CONTRACTOR ON A FORM PROVIDED BY THE ARCHITECT**, AND (8) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and **ACTUAL** attorneys' fees.

**§ 9.10.3** If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

**§ 9.10.4** The making of final payment shall **NOT** constitute a waiver of Claims by the Owner ~~except those arising from~~

- ~~.1 — liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;~~
- ~~.2 — failure of the Work to comply with the requirements of the Contract Documents; or~~
- ~~.3 — terms of special warranties required by the Contract Documents.~~

**§ 9.10.5** Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of **ALL** claims **OF THE CONTRACTOR**, except those previously made **BY THE CONTRACTOR** in writing and identified by **THE CONTRACTOR** as unsettled at the time of final Application for Payment **AND SPECIFICALLY REFERENCED AS BEING AN EXCEPTION TO THE WAIVER CONTAINED IN THIS SECTION**.

## **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

### **§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

**§ 10.1.1** **THE CONTRACTOR SHALL BE RESPONSIBLE FOR INITIATING, MAINTAINING AND SUPERVISING ALL SAFETY PRECAUTIONS AND PROGRAMS IN CONNECTION WITH THE PERFORMANCE OF THE CONTRACT. THE CONTRACTOR SHALL CONTINUOUSLY MAINTAIN ADEQUATE PROTECTION OF ALL WORK FROM DAMAGE AND SHALL PROTECT THE OWNER'S PROPERTY FROM INJURY OR LOSS. THE CONTRACTOR SHALL MAKE GOOD ANY SUCH DAMAGE, INJURY OR LOSS AT NO COST TO THE OWNER, EXCEPT TO THE EXTENT DIRECTLY CAUSED BY AGENTS OR EMPLOYEES OF THE OWNER. THE CONTRACTOR SHALL ADEQUATELY PROTECT THE WORK AND ADJACENT PROPERTY AS REQUIRED BY LAW, THE CONTRACT DOCUMENTS, OR AS OTHERWISE REQUIRED, TO CAUSE NO DAMAGE TO THE WORK AND ADJACENT PROPERTY DURING THE EXECUTION OF THE WORK. THIS REQUIREMENT SHALL ALSO APPLY TO STRUCTURES ABOVE AND BELOW GROUND AS CONDITIONS OF THE SITE REQUIRE. THE CONTRACTOR SHALL ALSO PROVIDE RECOMMENDATIONS AND INFORMATION TO THE OWNER REGARDING: (A) THE ASSIGNMENT OF RESPONSIBILITIES FOR SAFETY PRECAUTIONS AND PROGRAMS BY THE SUBCONTRACTORS AND RESPONSIBILITIES FOR SAFETY PRECAUTIONS AND PROGRAMS BY THE SUBCONTRACTORS AND THE OWNER FOR THE SAFETY OF MEMBERS OF THE CONSTRUCTION TEAM, THE OWNER, AND THE GENERAL PUBLIC; (B) TEMPORARY FACILITIES; AND (C) EQUIPMENT, MATERIALS AND SERVICES FOR COMMON USE OF SUBCONTRACTORS. THE CONTRACTOR SHALL VERIFY THAT THE REQUIREMENTS AND ASSIGNMENT OF RESPONSIBILITIES ARE INCLUDED IN THE PROPOSED CONTRACT DOCUMENTS.**

**§ 10.1.2** THE CONTRACTOR IS SOLELY RESPONSIBLE TO THE OWNER FOR HEALTH AND SAFETY AT THE PROJECT SITE AND, ACCORDINGLY, SHALL BE SOLELY RESPONSIBLE FOR INITIATING, MONITORING, MAINTAINING AND SUPERVISING ALL SAFETY PRECAUTIONS AND PROGRAMS IN CONNECTION WITH THE PERFORMANCE OF THE WORK. THE FOREGOING DOES NOT RELIEVE THE SUBCONTRACTORS OF THEIR RESPONSIBILITY TO THE CONTRACTOR FOR THE SAFE PERFORMANCE OF THEIR WORK IN ACCORDANCE WITH ALL APPLICABLE LAWS.

**§ 10.1.3** THE CONTRACTOR SHALL DEVELOP AND IMPLEMENT A HEALTH AND SAFETY PLAN THAT COMPLIES WITH ALL APPLICABLE LAWS COVERING ALL ACTIVITIES ON THE PROJECT SITE EXCEPT THOSE ACTIVITIES PERFORMED SOLELY BY THE OWNER. THE CONTRACTOR SHALL PROVIDE THE OWNER A COPY OF SUCH HEALTH AND SAFETY PLAN PRIOR TO COMMENCEMENT OF WORK. THE OWNER SHALL HAVE NO DUTY TO REVIEW THE PLAN AND SHALL ASSUME NO DUTY BY DOING SO. THE PLAN SHALL BE INCLUDED IN ALL BIDDING DOCUMENTS, AND THE REQUIREMENTS OF THE PLAN SHALL BE APPLICABLE TO ALL MEMBERS OF THE CONSTRUCTION TEAM.

## **§ 10.2 SAFETY OF PERSONS AND PROPERTY**

**§ 10.2.1** The Contractor shall take **EVERY** reasonable precaution for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

**§ 10.2.2** ~~The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.~~ THE CONTRACTOR SHALL TAKE ALL REASONABLE SAFETY PRECAUTIONS WITH RESPECT TO ITS WORK AND THE WORK OF OTHERS, SHALL COMPLY WITH ALL STANDARD INDUSTRY SAFETY MEASURES AND SHALL COMPLY WITH ALL APPLICABLE LAWS, ORDINANCES, RULES, REGULATIONS AND ORDERS OF ANY PUBLIC AUTHORITY AND ALL OTHER REQUIREMENTS OF THE CONTRACT DOCUMENTS, INCLUDING THOSE APPLICABLE TO THE SAFETY OF PERSONS OR PROPERTY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE SAFETY OF ALL OF THE CONTRACTOR'S EMPLOYEES AND THE SAFETY OF ALL OF THE CONTRACTOR'S SUBCONTRACTORS, SUPPLIERS, AND THEIR EMPLOYEES. THE CONTRACTOR SHALL REPORT IN WRITING TO THE ARCHITECT ANY INJURY TO ANY OF TO ANY OF CONTRACTOR'S OR ITS SUBCONTRACTORS' EMPLOYEES AT THE SITE WITHIN ONE (1) DAY AFTER THE OCCURRENCE OF SUCH INJURY.

**§ 10.2.3** The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable, **NECESSARY AND APPROPRIATE** safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

**§ 10.2.4** When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. **THE CONTRACTOR SHALL BE SOLELY AND FULLY RESPONSIBLE FOR ANY AND ALL DAMAGE CLAIMS AND FOR DEFENSE OF ALL ACTIONS AGAINST THE OWNER RELATING TO SUCH EXPLOSIVES, HAZARDOUS MATERIALS AND/OR UNUSUAL METHODS.**

**§ 10.2.5** The Contractor shall promptly remedy damage and loss ~~(other than damage or loss insured under property insurance required by the Contract Documents)~~ to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.



§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

### § 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party ~~CONTRACTOR~~ suffers injury or damage to person or property because of an act or omission of the other party ~~OWNER~~, or of others for whose acts such party ~~THE OWNER~~ is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party ~~OWNER~~ within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party ~~OWNER~~ to investigate the matter. ~~THIS PROVISION SHALL BE FOR INVESTIGATIVE PURPOSES ONLY AND SHALL NOT ELIMINATE OR REDUCE A PARTY'S OBLIGATION TO PURSUE CLAIMS. THE CONTRACTOR'S FAILURE TO DO SO SHALL BE AN IRREVOCABLE WAIVER OF ANY CLAIM ARISING OUT OF SUCH INJURY OR DAMAGE. INJURY OR DAMAGE TO PERSONS OR PROPERTY SUFFERED BY THE OWNER BECAUSE OF AN ACT OR OMISSION OF THE CONTRACTOR OR OTHERS FOR WHOSE ACTS THE CONTRACTOR IS LEGALLY RESPONSIBLE SHALL BE SUBJECT TO THE LIMITATIONS PROVISIONS ESTABLISHED BY MICHIGAN LAW.~~

§ 10.2.8.1 THE CONTRACTOR CAUSING DAMAGE TO THE WORK OF ANOTHER SHALL BE RESPONSIBLE FOR THE REPAIR AND REPLACEMENT OF SUCH DAMAGED WORK. BACK CHARGES SHALL BE MADE AGAINST THE CONTRACT SUM OF THE DAMAGING CONTRACTOR WHEN CORRECTIONS ARE NOT MADE PROMPTLY.

§ 10.2.8.2 IF THE CONTRACTOR OR ANY SUBCONTRACTOR CHOOSES TO USE ANY SYSTEMS, EQUIPMENT, FACILITIES, OR SERVICES WHICH HAVE BEEN INCORPORATED IN THE PROJECT AS A PERMANENT PART THEREOF BY ANY OTHER, THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR DAMAGES CAUSED TO SAID SYSTEMS, EQUIPMENT, FACILITIES OR SERVICES, AND HAVE DAMAGES REPAIRED AS REQUIRED, SO THAT IN NO CASE WILL THE PERFORMANCE OF THE USED SYSTEMS, EQUIPMENT, FACILITIES OR SERVICES BE DIMINISHED FROM THE SPECIFIED CRITERIA AS A RESULT OF SUCH USE.

§ 10.2.9 THE CONTRACTOR ACKNOWLEDGES THAT THE SAFETY OF THE OWNER'S STUDENTS, EMPLOYEES AND GUESTS IS OF THE UTMOST IMPORTANCE. THE CONTRACTOR WILL TAKE NO ACTION WHICH WOULD JEOPARDIZE THE SAFETY OF THE OWNER'S STUDENTS, EMPLOYEES AND GUESTS AND, WITHOUT THE OWNER'S WRITTEN APPROVAL, SHALL TAKE NO ACTION WHICH WOULD INTERFERE WITH THE OWNER'S ACTIVITIES. WITHOUT LIMITING THE FOREGOING PROVISIONS, THE CONTRACTOR SHALL COMPLY WITH ALL LAWS APPLICABLE TO STUDENTS AND/OR SCHOOL SAFETY.

### § 10.3 HAZARDOUS MATERIALS

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner, ~~IN ITS DISCRETION~~, shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall, ~~AS A COURTESY~~, furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. ~~The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection.~~ When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of

the Contractor's reasonable additional costs of shut down, delay and start up to ADDRESS SHUT-DOWN, DELAY AND START-UP.

**§ 10.3.3 NOT USED** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.. TO THE EXTENT THE CONTRACT REQUIRES THE REMOVAL, TRANSPORT AND DISPOSAL OF HAZARDOUS MATERIALS, THE CONTRACTOR AGREES THAT IT ASSUMES RESPONSIBILITY FOR SAID TASKS AS A PART OF THE AGREEMENT.

**§ 10.3.5** The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**§ 10.3.6 NOT USED** If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

## **§ 10.4 EMERGENCIES**

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's REASONABLE discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7. NOTHING IN THIS PARAGRAPH WILL BE CONSTRUED AS RELIEVING CONTRACTOR FROM THE COST AND RESPONSIBILITIES FOR EMERGENCIES COVERED HEREBY.

## **§ 10.5 NOTIFICATION OF UTILITY COMPANIES**

**§ 10.5.1** AT LEAST FIVE (5) WORKING DAYS PRIOR TO THE START OF WORK IN AREAS WHICH MAY INVOLVE EXISTING UTILITY LINES, THE CONTRACTOR SHALL NOTIFY BY CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED, THE REGISTERED UTILITY PROTECTION SERVICE OF THE UTILITY COMPANY POSSIBLY AFFECTED BY THE PLANNED WORK AND/OR THE MISS DIG NOTIFICATION SYSTEM, AS LEGALLY REQUIRED.

**§ 10.5.2** THE UTILITY COMPANY SHOULD, UPON RECEIPT OF NOTICE, STAKE, MARK OR OTHERWISE DESIGNATE THE LOCATION (AND DEPTH) OF THEIR LINES, OR TEMPORARILY MOVE THE LINE(S).

**§ 10.5.3** THE CONTRACTOR SHALL IMMEDIATELY REPORT TO THE RESPECTIVE UTILITY COMPANY ANY BREAK OR LEAK IN ITS LINES, OR ANY DENT, GOUGE, GROOVE OR OTHER DAMAGE TO THE UTILITY LINE OR TO ITS COATING OR CATHODIC PROTECTION MADE OR DISCOVERED IN THE COURSE OF THE WORK.

**§ 10.5.4** THE CONTRACTOR SHALL IMMEDIATELY ALERT THE OWNER, ARCHITECT AND OCCUPANTS OF NEARBY PREMISES OF ANY AND ALL EMERGENCIES CAUSED OR DISCOVERED IN THE UTILITY LINE(S) IN THE COURSE OF THE WORK.

## **§ 10.6 SECURITY**

**§ 10.6.1** ALL CONSTRUCTION PARTICIPANTS, INCLUDING CONTRACTOR, ARCHITECT, OWNER'S REPRESENTATIVE, TRADE CONTRACTORS, ETC., SHALL COOPERATE WITH THE OWNER'S SECURITY PERSONNEL AND SHALL COMPLY WITH ALL OF

THE OWNER'S SECURITY REQUIREMENTS. SUCH REQUIREMENTS SHALL INCLUDE, WITHOUT LIMITATION, IF REQUESTED BY THE OWNER, DELIVERING TO THE OWNER'S SECURITY PERSONNEL, PRIOR TO THE COMMENCEMENT OF THE WORK ON EACH DAY, A LIST OF ALL PERSONNEL WHO WILL BE PERMITTED ACCESS TO THE WORK. THE FOREGOING, HOWEVER, SHALL NOT RELIEVE THE CONTRACTOR OF ANY OBLIGATION TO PROVIDE A SAFE AND SECURE WORKPLACE FOR ALL PARTIES ENTERING THE PROJECT SITE.

## **§ 10.7 FIRE PROTECTION**

**§ 10.7.1** THE CONTRACTOR SHALL MAINTAIN FREE ACCESS TO THE BUILDING AREAS FOR FIRE FIGHTING EQUIPMENT AND SHALL AT NO TIME BLOCK OFF MAIN ROADWAYS OR FIRE AISLE WITHOUT PROVIDING ADEQUATE AUXILIARY ROADWAYS AND MEANS OF ENTRANCE FOR FIRE FIGHTING EQUIPMENT, INCLUDING HEAVY FIRE DEPARTMENT TRUCKS, WHERE APPLICABLE.

**§ 10.7.2** THE CONTRACTOR SHALL AT ALL TIMES COOPERATE WITH THE OWNER AND KEEP THE MUNICIPAL FIRE DEPARTMENT INFORMED OF THE MEANS OF ENTRANCE AND CHANGES TO THE ROADWAYS OR FIRE AISLES AS NEEDED TO PROVIDE FIRE DEPARTMENT ACCESS TO OR AROUND TO PROJECT SITE.

**§ 10.7.3** THE CONTRACTOR SHALL, DURING THE ENTIRE CONSTRUCTION PERIOD AND UNTIL THE COMPLETION OF THE WORK, PROVIDE AND MAINTAIN ALL MATERIAL, EQUIPMENT AND SERVICES NECESSARY FOR AN ADEQUATE FIRE PROTECTION SYSTEM, WHICH SHALL MEET THE APPROVAL OF THE OWNER AND/OR THE ARCHITECT. THE SYSTEM SHALL, AT A MINIMUM, MEET THE REQUIREMENTS SET FORTH IN THE CONTRACT DOCUMENTS AND OF APPLICABLE LAWS. THESE REQUIREMENTS SHALL BE AUGMENTED AND/OR THE INSTALLATIONS RELOCATED, AS MAY BE NECESSARY TO MEET, AT ALL TIMES, THE DEMANDS OF ADEQUATE PROTECTION IN ALL AREAS AND SHALL NOT BE REDUCED PRIOR TO THE COMPLETION OF THE WORK WITH THE WRITTEN APPROVAL OF THE OWNER AND/OR THE ARCHITECT.

## **ARTICLE 11 INSURANCE AND BONDS**

### **§ 11.1 CONTRACTOR'S LIABILITY INSURANCE**

**§ 11.1.1** The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations;
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18

**.9 LIABILITY INSURANCE SHALL INCLUDE ALL MAJOR DIVISIONS OF COVERAGE AND BE ON A COMPREHENSIVE BASIS INCLUDING:**

- .1 PREMISES' OPERATIONS (DELETING X, C, OR U EXCLUSIONS);
- .2 OWNER'S AND CONTRACTOR'S PROTECTIVE;
- .3 PRODUCTS AND COMPLETION OPERATIONS;
- .4 CONTRACTUAL – INCLUDING SPECIFIC FOR THE CONTRACTOR'S OBLIGATIONS UNDER PARAGRAPH 3.18;
- .5 ANY AUTO;
- .6 BROAD FORM PROPERTY DAMAGE, INCLUDING COMPLETED OPERATIONS; AND
- .7 ALL BONDS REQUIRED BY LAW, INCLUDING BID BOND, PERFORMANCE BOND AND PAYMENT BOND.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.2.1 THE CONTRACTOR'S LIABILITY INSURANCE SHALL BE NO LESS THAN THE FOLLOWING:

1. GENERAL REQUIREMENTS
  - A. WORKER'S COMPENSATION - STATUTORY
  - B. EMPLOYER'S LIABILITY - ESTABLISHED BY OWNER
2. COMPREHENSIVE GENERAL LIABILITY
  - A. BODILY INJURY - \$1,000,000 EACH OCCURRENCE  
- \$2,000,000 AGGREGATE
  - B. PERSONAL INJURY - \$1,000,000 EACH OCCURRENCE  
- \$2,000,000 AGGREGATE
3. AUTOMOBILE LIABILITY
  - A. BODILY INJURY - \$1,000,000 EACH PERSON  
- \$1,000,000 EACH OCCURRENCE
  - B. PROPERTY DAMAGE - \$1,000,000 EACH OCCURRENCE
4. INDEPENDENT CONTRACTORS - \$1,000,000 EACH OCCURRENCE
5. PRODUCTS AND COMPLETE OPERATIONS - \$1,000,000 FOR ONE (1) YEAR,  
- COMMENCING WITH ISSUANCE OF FINAL  
- CERTIFICATE FOR PAYMENT.
6. CONTRACTUAL LIABILITY - \$1,000,000 EACH OCCURRENCE
7. UMBRELLA COVERAGE - \$2,000,000 EACH OCCURRENCE  
- \$4,000,000 AGGREGATE

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled, **REDUCED** or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor ~~with reasonable promptness~~ **TO THE OWNER AND ARCHITECT NO LESS THAN THIRTY DAYS PRIOR TO ANY REDUCTION OF COVERAGE.**

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

**§ 11.1.5** ON ALL INSURANCE CONTRACTS UNDER WHICH THE CONTRACTOR IS OBLIGATED TO HAVE ITS INSURANCE COMPANY NAME THE OWNER AS ADDITIONAL INSURED, THE CONTRACTOR SHALL REQUIRE SUCH INSURANCE COMPANY TO ADD TO THE POLICY THE FOLLOWING CLAUSE: "THE INSURANCE AFFORDED TO THE ADDITIONAL INSURED IS PRIMARY INSURANCE. IF THE ADDITIONAL INSUREDS HAVE OTHER INSURANCE WHICH IS APPLICABLE TO THE LOSS ON AN EXCESS OR CONTINGENT BASIS, THE AMOUNT OF THE INSURANCE COMPANY'S LIABILITY UNDER THIS POLICY SHALL NOT BE REDUCED BY THE EXISTENCE OF SUCH OTHER INSURANCE."

## **§ 11.2 OWNER'S LIABILITY INSURANCE**

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

## **§ 11.3 PROPERTY INSURANCE**

**§ 11.3.1** Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project. **THE TERM "TEMPORARY BUILDING", AS USED IN THIS SECTION, SHALL NOT INCLUDE JOB TRAILERS OR ANY PARTY.**

**THIS POLICY WILL EXCLUDE ANY TOOLS, EQUIPMENT, SCAFFOLDING, GLASS BREAKAGE, ETC. OWNED OR RENTED BY THE CONTRACTOR OR SUBCONTRACTORS AND MATERIAL STORED ON THE SITE BUT NOT INCORPORATED INTO THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL PRODUCT UNTIL THE DATE OF SUBSTANTIAL COMPLETION IS ESTABLISHED BY THE ARCHITECT/ENGINEER. THE CONTRACTOR SHALL REPLACE ANY WORK IF DAMAGED BEFORE SUBSTANTIAL COMPLETION. THE CONTRACTOR MAY ASSUME THE RISK ITSELF OR OBTAIN INSURANCE IN AMOUNTS IT DEEMS SUFFICIENT.**

**§ 11.3.1.1** Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

**§ 11.3.1.2** If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

**§ 11.3.1.3** If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles, **AND THE OWNER MAY RECOVER SUCH COSTS FROM THE PARTY CAUSING THE LOSS.**

**§ 11.3.1.4** This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

**§ 11.3.1.5** Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.



### § 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

### § 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. ~~The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.~~

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

~~§ 11.3.5 NOT USED If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.~~

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

### § 11.3.7 WAIVERS OF SUBROGATION

~~The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.~~ SUPERIOR TO ANY OTHER TERM IN THIS AGREEMENT, ANY REFERENCE IN THE GENERAL CONDITIONS TO "WAIVER OF SUBROGATION" OR SUCH SIMILAR TERM ARE HEREBY DELETED AND SHALL BE DECLARED TO NO EFFECT.

§ 11.3.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

~~§ 11.3.9 NOT USED If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and~~

Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

~~§ 11.3.10 NOT USED~~ The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

**§ 11.3.10** THE OWNER SHALL USE ITS BEST EFFORTS, WITH CONSULTATION OF THE CONSTRUCTION MANAGER, TO REACH A QUICK AND FAIR SETTLEMENT FOR ALL INTERESTED PARTIES, WITH THE INSURANCE COMPANIES AFTER A LOSS.

## **§ 11.4 PERFORMANCE BOND AND PAYMENT BOND**

**§ 11.4.1** The Owner hereby requires the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder EACH IN THE PENAL SUM OF 100% OF THE CONTRACT SUM AND IN ACCORDANCE WITH APPLICABLE LAW on the date of execution of the Contract.

**§ 11.4.2** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

**§ 11.4.3** THE CONTRACT SHALL DELIVER COPIES OF THE PERFORMANCE BOND AND PAYMENT BOND REQUIRED BY THE AGREEMENT TO THE OWNER PRIOR TO CONTRACTOR BEGINNING PERFORMANCE PURSUANT TO THE AGREEMENT. THE CONTRACTOR'S OBLIGATION TO PROVIDE SUCH BONDS SHALL NOT BE WAIVED IN ANY FASHION, INCLUDING ANY FAILURE TO SECURE SUCH BONDS PRIOR TO CONTRACTOR BEGINNING PERFORMANCE PURSUANT TO THE AGREEMENT.

**§ 11.4.4** ANY SUBCONTRACTOR PERFORMANCE BOND AND/OR THE LABOR AND MATERIAL PAYMENT BOND SHALL BE "DUAL OBLIGEE" TYPE BONDS NAMING BOTH THE OWNER AND THE CONTRACTOR AS OBLIGES.

**§ 11.4.5** IF APPLICABLE AND AS PERMITTED BY THE OWNER/CONSTRUCTION MANAGER AGREEMENT, BONDS SHALL BE EXECUTED BY A RESPONSIBLE SURETY LICENSED IN THE STATE WHERE THE WORK IS LOCATED WITH A BEST'S RATING OF NO LESS THAN A, XII OR BETTER AND SHALL REMAIN IN EFFECT FOR A PERIOD OF TIME ESTABLISHED BY MICHIGAN LAW.

**§ 11.4.6** THE CONTRACTOR MAY, IN ITS DISCRETION, DETERMINE OTHER MEMBERS OF THE CONSTRUCTION TEAM WHO WILL BE REQUIRED TO SUPPLY BONDS. ALL SUCH BONDS SHALL BE (i) PURCHASED SOLELY AT THE EXPENSE OF THE CONTRACTOR (OR THE PERSONS SUPPLYING THEM), WITHOUT REIMBURSEMENT UNDER THE CONTRACT SUM OR GUARANTEED MAXIMUM PRICE OR OTHERWISE, AND (ii) DUAL OBLIGEE BONDS, NAMING THE OWNER AS ONE OF THE OBLIGES.

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 UNCOVERING OF WORK**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request WITH THE OWNER'S CONSENT to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. AT THE TIME OWNER'S CONSENT IS SOUGHT AS DESCRIBED HEREIN, THE ARCHITECT SHALL NOTIFY THE OWNER THAT ADDITIONAL COSTS MAY APPLY IF THE WORK IS IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner OR THE SEPARATE CONTRACTOR shall be responsible for payment of such costs.

**§ 12.1.3** If a portion of the Work has been covered which the Architect has not specifically requested to examine prior to its being covered, the Architect, with the Owner's written concurrence, may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, correction shall be at the Contractor's expense.

## **§ 12.2 CORRECTION OF WORK**

It is understood that the correction of work, either before or after Substantial Completion, shall occur without extension of the construction time, without increase in the contract sum or guaranteed maximum price, and without use of any contingency.

### **§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION**

~~The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.~~ If any portion of the Work is determined by the Owner or Architect, either during performance of the Work or during any applicable warranty period, to be defective or not in compliance with the requirements therefor, the Owner shall notify the Contractor in writing that such Work is rejected. Thereupon, the Contractor shall immediately replace and/or correct such Work by making the same comply strictly with all the requirements therefor. The Contractor shall bear all costs of correcting such rejected Work, including work of other subcontractors and including compensation for the Architect's additional services and any delay or related damages to the Owner made necessary thereby. The Owner shall have the right to charge the Contractor for any compensation payable for the Architect's or Construction Manager's additional services required by the Contractor's rejected Work and deduct the payment from the next payment due the Contractor.

### **§ 12.2.2 AFTER SUBSTANTIAL COMPLETION**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within ~~one~~two years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. ~~During the one year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty.~~ If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

**§ 12.2.2.2** The ~~one~~two-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

**§ 12.2.2.3** The ~~one~~two-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

**§ 12.2.3** The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

**§ 12.2.4** The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.



**§ 12.2.5** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the ~~one~~two-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

**§ 12.2.6** THE CONTRACTOR SHALL RESPOND IMMEDIATELY TO CORRECT WORK DEFICIENCIES AND/OR PUNCH LIST ITEMS. FAILURE TO CORRECT WORK DEFICIENCIES AND/OR PUNCH LIST ITEMS IN A TIMELY FASHION SHALL BE A MATERIAL BREACH, AND THE OWNER MAY TERMINATE THE CONTRACT. WHETHER OR NOT THE CONTRACT IS TERMINATED, IF THE CONTRACTOR FAILS TO MAKE CORRECTIONS IN A TIMELY FASHION, SUCH WORK MAY BE CORRECTED BY THE OWNER, IN ITS SOLE DISCRETION, AT THE CONTRACTOR'S EXPENSE AND THE CONTRACT SUM MAY BE ADJUSTED BY BACKCHARGE ACCORDINGLY. THE CONTRACTOR SHALL PROMPTLY NOTIFY THE ARCHITECT IN WRITING WHEN WORK DEFICIENCIES AND/OR PUNCH LIST ITEMS ARE COMPLETED. IF UPON REVIEW OF THE WORK BY THE ARCHITECT, AFTER SUCH NOTIFICATION BY THE CONTRACTOR, WORK DEFICIENCIES AND/OR PUNCH LIST ITEMS SHALL CONTINUE TO EXIST, THE CONTRACTOR SHALL REIMBURSE THE OWNER FOR ANY COSTS INCURRED BY THE OWNER, PLUS TEN PERCENT (10%) OVERHEAD AND PROFIT, AS WELL AS THE ARCHITECT'S FEES FOR REINSPCTIONS OF THE WORK.

### **§ 12.3 ACCEPTANCE OF NONCONFORMING WORK**

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made. ~~THE ACCEPTANCE OF NONCONFORMING WORK BY THE OWNER SHALL BE BY WRITTEN CHANGE ORDER SIGNED BY THE OWNER'S AUTHORIZED REPRESENTATIVE. ACCEPTANCE OF NONCONFORMING WORK MAY ONLY OCCUR PURSUANT TO SUCH WRITTEN CHANGE ORDER.~~

## **ARTICLE 13 MISCELLANEOUS PROVISIONS**

### **§ 13.1 GOVERNING LAW**

The Contract shall be governed by the law of the ~~place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern~~ Section 15.4. STATE OF MICHIGAN IN ALL RESPECTS, EXCEPT THAT CLAIMS AND CAUSES OF ACTION BROUGHT BY THE OWNER SHALL NOT BE DEEMED UNTIMELY IF FILED WITHIN SIX (6) YEARS OF SUBSTANTIAL COMPLETION OF THE ENTIRE PROJECT.

### **§ 13.2 SUCCESSORS AND ASSIGNS**

**§ 13.2.1** The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§ 13.2.2** The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

### **§ 13.3 WRITTEN NOTICE**

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by NATIONAL OVERNIGHT courier service providing A TRACKING SYSTEM AND proof of delivery to, the last business address known to the party giving notice.

### **§ 13.4 RIGHTS AND REMEDIES**

**§ 13.4.1** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

**§ 13.4.2** No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

### **§ 13.5 TESTS AND INSPECTIONS**

**§ 13.5.1** Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor. **WHEREVER THE CONTRACT DOCUMENTS REQUIRE THE CONTRACTOR TO GIVE "NOTICE" OR "TIMELY NOTICE" TO THE ARCHITECT, PUBLIC AUTHORITY, AND/OR OTHERS, IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO FURNISH ALL SUCH NOTICES SUFFICIENTLY IN ADVANCE TO ALLOW THE PARTY RECEIVING THE NOTICE REASONABLE TIME TO REACT TO SUCH NOTICE, INCLUDING TRAVEL TIME ON THE JOB SITE AS NECESSARY, WHEN SUCH NOTICES REQUIRE THE ON-SITE PRESENCE OF THE ARCHITECT, PUBLIC AUTHORITY, THEIR AUTHORIZED REPRESENTATIVES, OR OTHERS FOR FIELD OBSERVATION OF INSPECTIONS, TESTING OR APPROVALS. REASONABLE TIME SHALL BE DEFINED AS NO LESS THAN 24 HOURS PLUS NORMAL TRAVEL TIME FROM THE HOME OFFICE OF THE PARTY BEING NOTIFIED TO THE JOB SITE AND MUST ALSO ACCOMMODATE KNOWN, STANDARD, OR REASONABLE PROCESSING PERIODS.**

**§ 13.5.2** If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

**§ 13.5.3** If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents **OR APPLICABLE LAW**, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

**§ 13.5.4** Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

**§ 13.5.5** If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

**§ 13.5.6** Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid ~~unreasonable~~ delay in the Work.

### **§ 13.6 INTEREST**

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

### **§ 13.7 TIME LIMITS ON CLAIMS**

**§ 13.7.1** The Owner shall commence all claims and causes of action **IN ACCORDANCE WITH SECTION 13.1, REGARDLESS OF ANY OTHER TIME FRAMES IDENTIFIED IN THIS AGREEMENT OR OTHER CONTRACT DOCUMENTS. THE CONTRACTOR SHALL COMMENCE ALL CLAIMS AND CAUSES OF ACTION IN ACCORDANCE WITH SECTION 15.1.2, OTHER PROVISIONS OF THIS AGREEMENT AND IN ACCORDANCE WITH MICHIGAN LAW** ~~whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law,~~

~~but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.~~

**§ 13.7.2** REGARDLESS OF ANY PROVISIONS TO THE CONTRARY, THE STATUTE OF LIMITATIONS WITH RESPECT TO ANY CLAIM BY THE OWNER WITH RESPECT TO DEFECTIVE OR NONCONFORMING WORK SHALL NOT COMMENCE UNTIL THE DISCOVERY OF SUCH DEFECTIVE OR NONCONFORMING WORK BY THE OWNER. SEE ALSO SECTION 13.1.

### **§ 13.8 SURETY NOTICE AND PRIOR APPROVAL**

EXCEPT WHERE OTHERWISE EXPRESSLY REQUIRED BY THE TERMS OF THE AGREEMENT, THE CONTRACT DOCUMENTS OR THE GENERAL CONDITIONS, EXERCISE BY THE OWNER OF ANY CONTRACTUAL OR LEGAL RIGHT OR REMEDY WITHOUT PRIOR NOTICE TO OR APPROVAL BY THE CONTRACTOR'S SURETY SHALL IN NO WAY BAR OR PROHIBIT THE OWNER'S ABILITY TO PURSUE SUCH RIGHT OR REMEDY. FURTHER, PURSUIT OF SUCH A RIGHT OR REMEDY WITHOUT PRIOR NOTICE TO OR APPROVAL OF SURETY SHALL IN NO WAY COMPROMISE, LIMIT OR BAR ANY CLAIM BY THE OWNER AGAINST A SURETY BOND OF THE CONTRACTOR.

## **ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT**

### **§ 14.1 TERMINATION BY THE CONTRACTOR**

**§ 14.1.1** The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents, **SUBJECT TO JUSTIFIABLE WITHHOLDING OF PAYMENT AS DESCRIBED HEREIN OR IN THE CONTRACT DOCUMENTS;** or
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

**§ 14.1.2** The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

**§ 14.1.3** If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

**§ 14.1.4** If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

### **§ 14.2 TERMINATION BY THE OWNER FOR CAUSE**

**§ 14.2.1** The Owner may terminate the Contract if the Contractor

- .1 ~~repeatedly~~ refuses or fails to supply enough properly skilled workers or proper materials **TO THE POINT OF NEGATIVELY IMPACTING THE PROJECT AND/OR THE RELATED SCHEDULE;**
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents; OR
- .5 THE CONTRACTOR FAILS TO PROSECUTE THE WORK OR ANY PART THEREOF WITH PROMPTNESS AND DILIGENCE OR FAILS TO PERFORM ANY PROVISIONS OF THIS CONTRACT, OR GOES INTO BANKRUPTCY, LIQUIDATION, MAKES AN ASSIGNMENT FOR THE BENEFIT OF CREDITORS, ENTERS INTO A COMPOSITION WITH ITS CREDITORS, OR BECOMES INSOLVENT.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, ~~seven~~ **THREE (3)** days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety ~~THE CONTRACTOR'S RIGHT TO PROCEED WITH THE WORK, OR SUCH PART OF THE WORK AS TO WHICH SUCH DEFAULTS HAVE OCCURRED, AND MAY TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:~~

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

IN THE EVENT THE CONTRACTOR'S SURETY BOND REQUIRES NOTICE OF INTENT TO DECLARE A DEFAULT OF THE CONTRACTOR AND IF SUCH BOND NOTICE IS PROVIDED BY THE OWNER, SUCH NOTICE SHALL BE ADEQUATE TO SATISFY THE THREE (3) DAY WRITTEN NOTICE DESCRIBED ABOVE IN THIS SECTION.

IF THE OWNER ATTEMPTS TO TERMINATE THE CONTRACT WITHOUT FOLLOWING THE PROCESS IDENTIFIED IN THIS SECTION 14.2.2, SUCH FAILURE SHALL NOT AMOUNT TO A BREACH OF THE CONTRACT ON THE PART OF OWNER.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner **IN PURSUING TERMINATION AND COMPLETION OF THE WORK, INCLUDING ACTUAL ATTORNEY AND LEGAL FEES AND COSTS**, and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

#### § 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

#### § 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;

- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

**§ 14.4.3** In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination ~~along with reasonable overhead and profit on the Work not executed.~~

## ARTICLE 15 CLAIMS AND DISPUTES

### § 15.1 CLAIMS

#### § 15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract, **INCLUDING BUT NOT LIMITED TO ADDITIONAL SUMS, ADDITIONAL TIME FOR PERFORMANCE, OR DAMAGES FOR DELAY.** The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. **. THE CONTRACTOR SHALL NOT KNOWINGLY (AS "KNOWINGLY" IS DEFINED IN THE FEDERAL FALSE CLAIMS ACT, 31 USC 3729, et seq.) PRESENT OR CAUSE TO BE PRESENTED A FALSE OR FRAUDULENT CLAIM. AS A CONDITION PRECEDENT TO MAKING A CLAIM BY THE CONTRACTOR, THE CLAIM SHALL BE ACCOMPANIED BY AN AFFIDAVIT SWORN TO BEFORE A NOTARY PUBLIC OR OTHER PERSON AUTHORIZED TO ADMINISTER OATHS IN THE STATE OF MICHIGAN AND EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF THE CONTRACTOR, WHICH STATES THAT: "THE CLAIM WHICH IS SUBMITTED HERewith COMPLIES WITH SUBPARAGRAPH 4.3.1 OF THE GENERAL CONDITIONS, AS AMENDED, WHICH PROVIDES THAT THE CONTRACTOR SHALL NOT KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED A FALSE OR FRAUDULENT CLAIM." CLAIMS OF THE OWNER SHALL BE GOVERNED BY THE RELEVANT MICHIGAN STATUTORY LIMITATIONS PERIOD.**

#### § 15.1.2 NOTICE OF CLAIMS

Claims by ~~either the Owner or Contractor~~ must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ **THE CONTRACTOR** must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. **FAILURE TO TIMELY AND PROPERLY INITIATE A CLAIM SHALL BE AN IRREVOCABLE WAIVER OF SUCH CLAIM. CLAIMS BY THE OWNER SHALL BE GOVERNED BY THE APPLICABLE STATUTE OF LIMITATIONS PERIOD, EXCEPT WHEN A PROVISION OF THE CONTRACT DOCUMENTS PROVIDES A LONGER PERIOD.**

#### § 15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, **INCLUDING MEDIATION, ARBITRATION AND/OR LITIGATION, AS APPLICABLE,** except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make **UNDISPUTED** payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

#### § 15.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. **FAILURE TO PROVIDE SUCH NOTICE SHALL SERVE AS AN ABSOLUTE BAR AGAINST A CLAIM FOR SUCH AN INCREASE IN THE CONTRACT SUM.** Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. **A PROJECT DELAY SHALL NOT BE A BASIS FOR A CLAIM FOR ADDITIONAL COST. DELAYS MAY BE REMEDIED ONLY THROUGH AN EXTENSION OF TIME PER SECTION 15.1.5.**

#### § 15.1.5 CLAIMS FOR ADDITIONAL TIME

**§ 15.1.5.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, **ADDITIONAL** written notice as provided herein shall be given **IN ADDITION TO THE GENERAL REQUIREMENTS FOR FILING A CLAIM. FAILURE TO GIVE SUCH NOTICE SHALL NOT BE AN IRREVOCABLE WAIVER OF A CLAIM FOR ADDITIONAL TIME.** The Contractor's Claim



shall include an estimate of probable effect of delay on progress of the Work, **DUE TO THE INCREASE IN CONTRACT TIME SOUGHT**. In the case of a continuing delay, only one Claim is necessary.

**§ 15.1.5.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

**§ 15.1.6** **THE CONTRACTOR SHALL INDEPENDENTLY VERIFY ALL INFORMATION RELATED TO UTILITIES PRIOR TO BEGINNING THE WORK. THE CONTRACTOR SHALL MAKE CAREFUL INVESTIGATION TO ESTABLISH THE EXACT LOCATION OF ANY SUCH ITEMS INDICATED ON THE DRAWINGS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL COSTS ARISING OUT OF DAMAGE TO SUCH ITEMS OR ADDITIONAL CONSTRUCTION COSTS INCURRED BECAUSE CONTRACTOR FAILED TO VERIFY SAID INFORMATION.**

#### **CLAIMS FOR CONSEQUENTIAL DAMAGES**

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- ~~1~~ — damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- ~~2~~ — damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

**§ 15.1.7** **THE CONTRACTOR BIDDING ON THE WORK IS RESPONSIBLE FOR VISITING THE SITE AND DETERMINING ALL LOCAL CONDITIONS THAT MAY IN ANY WAY AFFECT THEIR WORK.**

#### **§ 15.2 INITIAL DECISION**

**§ 15.2.1** Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision **INTERPRETATION**. The Architect will serve as the Initial Decision Maker, ~~unless otherwise indicated in the Agreement~~. Except for those Claims excluded by this Section 15.2.1, an initial decision **INTERPRETATION** shall be required as a condition precedent to mediation, **ARBITRATION AND/OR LITIGATION**, of any Claim **BROUGHT BY THE CONTRACTOR AGAINST THE OWNER**, arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no ~~decision~~ **INTERPRETATION** having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

**§ 15.2.2** The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to ~~resolve~~ **INTERPRET** the Claim. **WITHIN TEN (10) DAYS OF A WRITTEN REQUEST, THE CONTRACTOR SHALL MAKE AVAILABLE TO THE OWNER OR ITS REPRESENTATIVE ALL OF ITS BOOKS, RECORDS, OR OTHER DOCUMENTS IN ITS POSSESSION OR TO WHICH IT HAS ACCESS RELATING TO A CLAIM AND SHALL REQUIRE ITS SUBCONTRACTORS, REGARDLESS OF TIER, AND MATERIAL MEN TO DO THE SAME.**

**§ 15.2.3** In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a ~~decision~~ **AN INTERPRETATION**. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

**§ 15.2.4** If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting

data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will, **BASED ON ITS INTERPRETATION**, either reject or approve the Claim in whole or in part.

**§ 15.2.5** The Initial Decision Maker will render an initial ~~decision~~ **INTERPRETATION** approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial ~~decision~~ **INTERPRETATION** shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any **RECOMMENDED** change in the Contract Sum or Contract Time or both. The initial ~~decision~~ **INTERPRETATION** shall be ~~final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution~~ **THE PARTIES' AGREED-UPON DISPUTE RESOLUTION PROCESS**.

**§ 15.2.6 NOT USED** ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~

**§ 15.2.6.1** ~~Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

**§ 15.2.7** In the event of a Claim against the Contractor, the Owner, **ARCHITECT OR INITIAL DECISION MAKER** may, but **ARE** not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner, **ARCHITECT OR INITIAL DECISION MAKER** may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

**§ 15.2.8 NOT USED** ~~If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

## **§ 15.3 MEDIATION**

**§ 15.3.1** **EXCEPT AS STATED IN THIS AGREEMENT OR OTHERWISE AGREED IN WRITING BY THE PARTIES**, claims arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, **AND** 9.10.5 shall be subject to mediation as a condition precedent to **THE PARTIES' AGREED-UPON DISPUTE RESOLUTION PROCESS**.

**§ 15.3.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the ~~filing of binding~~ **COMMENCEMENT OF THE PARTIES' AGREED-UPON** dispute resolution proceedings but, in such event, mediation shall proceed in advance of ~~binding dispute resolution~~ **SUCH** proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order ~~If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~

**§ 15.3.3** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

## **§ 15.4 ARBITRATION**

**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. **AMENDMENT MAY BE PERMITTED WHEN CLAIMS ARE NOT INCLUDED DUE TO OVERSIGHT, INADVERTENCE OR EXCUSABLE NEGLIGENCE.**

**§ 15.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, **IF APPLICABLE**, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

#### **§ 15.4.4 CONSOLIDATION OR JOINDER**

**§ 15.4.4.1 NOT USED** Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s). **§ 15.4.4.2 NOT USED** Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent. **§ 15.4.4.3 NOT USED** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.

**THE CONTRACTOR FURTHER AGREES TO INCLUDE A SIMILAR DISPUTE RESOLUTION PROVISIONS IN ALL AGREEMENTS WITH THE INDEPENDENT CONTRACTORS AND CONSULTANTS RETAINED FOR THE PROJECT AND TO REQUIRE ALL INDEPENDENT CONTRACTORS AND CONSULTANTS ALSO TO INCLUDE A SIMILAR DISPUTE RESOLUTION PROVISIONS IN ALL AGREEMENTS WITH SUBCONTRACTORS, ALL SUBCONSULTANTS, SUPPLIERS OR FABRICATORS SO RETAINED, THEREBY PROVIDING FOR A CONSISTENT METHOD OF DISPUTE RESOLUTION BETWEEN THE PARTIES TO THOSE AGREEMENTS. SUBJECT TO THE OTHER LIMITATIONS PERIODS IDENTIFIED IN THESE GENERAL CONDITIONS WHICH ARE UNDERSTOOD TO GOVERN OVER THIS SENTENCE, NO DEMAND FOR MEDIATION OR ARBITRATION SHALL BE MADE AFTER THE DATE WHEN THE APPLICABLE STATUTES OF LIMITATION WOULD BAR LEGAL OR EQUITABLE PROCEEDINGS. DURING THE PENDENCY OF ANY MEDIATION OR ARBITRATION, ALL APPLICABLE LIMITATIONS PERIOD SHALL BE TOLLED UNTIL THE CONCLUSION OF THAT PROCESS.**

**WITH THE EXCEPTION OF MATTERS SOLELY DEALING WITH THIS AGREEMENT, THE OWNER RESERVES THE RIGHT IN ITS DISCRETION TO REQUIRE CONSOLIDATION OR JOINDER OF ANY MEDIATION OR ARBITRATION ARISING OUT OF OR RELATING TO THIS AGREEMENT WITH ANOTHER MEDIATION OR ARBITRATION INVOLVING A PERSON OR ENTITY NOT A PARTY TO THIS AGREEMENT IN ANY EVENT THE OWNER BELIEVES SUCH CONSOLIDATION OR JOINDER IS NECESSARY IN ORDER TO RESOLVE A DISPUTE OR AVOID DUPLICATION OF TIME, EXPENSE OR EFFORT. WITH THE EXCEPTION OF MATTERS SOLELY DEALING WITH THIS AGREEMENT, IN THE EVENT THE OWNER IS INVOLVED IN A DISPUTE WHICH IS NOT SUBJECT TO MEDIATION OR ARBITRATION INVOLVING A PERSON OR ENTITY NOT A PARTY TO THIS AGREEMENT, THE MEDIATION AND ARBITRATION PROVISIONS OF THIS ARTICLE SHALL BE DEEMED TO BE VOID AND NONEXISTENT IN THE EVENT OWNER, IN ITS DISCRETION, DETERMINES THE CONTRACTOR SHOULD BECOME A PARTY TO THAT DISPUTE BY JOINDER OR OTHERWISE. ANY MEDIATION OR ARBITRATION HEARING SHALL BE HELD IN THE GENERAL LOCATION WHERE THE PROJECT IS LOCATED, UNLESS ANOTHER LOCATION IS MUTUALLY AGREED UPON.**



This Agreement entered into as of the day and year first written above.

**OWNER**

**SOUTHGATE COMMUNITY SCHOOL DISTRICT,**

\_\_\_\_\_  
(Signature)

« »« »

\_\_\_\_\_  
(Printed name and title)

**CONSTRUCTION MANAGER**

\_\_\_\_\_  
(Signature)

« »« »

\_\_\_\_\_  
(Printed name and title)



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SECTION 007316  
INSURANCE REQUIREMENTS

**1. GENERAL**

- 1.1. Trade Contractor shall provide general liability insurance, including comprehensive, products and completed operations, hazards, contractual and independent Contractors, as well as automobile liability, workman's compensation and employee liability coverage on all their employees and their Subcontractors' employees engaged in executing this Contract and to provide all other insurance coverage required by the Contract Documents to the Prime Contract.
- 1.2. The Trade Contractor agrees that occurrence-based insurance coverage required by contract shall be continued throughout the duration of the warranty period for two (2) years after substantial completion. The Trade Contractor agrees that claims-made insurance shall be continued for six (6) years beyond substantial completion. For Contracts that require Pollution Insurance coverage, such coverage shall be continued for three years beyond the substantial completion date of the project, or as specified by the Prime Contract, whichever duration is greater. Upon request by Clark Construction and/or Owner, Trade Contractor shall provide evidence/proof of insurance that the insurance coverage is being continued throughout the period specified by contract.
- 1.3. Trade Contractor shall carry, and require its Subcontractors to carry, identical insurance to that which the Construction Manager is required to carry under the Prime Contract. Trade Contractor's insurance shall include contractual liability coverage applicable to its obligations pursuant to this Contract.
- 1.4. Trade Contractor shall cause its insurance carriers to add the Construction Manager as an additional named insured on all such policies excluding Workers Compensation and automobile insurance prior to commencement of Work. Trade Contractor's insurance carriers shall be directed to notify the Construction Manager (thirty) 30 days in advance of cancellation of any insurance coverage required herein. The additional insured endorsement included on the Trade Contractor's operations performed by or on behalf of the Trade Contractor. If the additional insureds have other insurance which is applicable to the project, such other insurance shall be on an excess or contingent basis. The amount of the insurer's liability under this insurance policy shall not be reduced by the existence of such other insurance.
- 1.5. As a condition of being awarded a Contract, the Trade Contractor must provide Clark Construction Company with satisfactory evidence of insurance coverage as follows. (Refer to sample Certificate of Insurance included in Certificates and Other Forms Section).
  - A. Certificate of Insurance must be provided on the ACORD Certificate Form #25 or 25-S.
  - B. AM Best rating for each insurance carrier shall be at **A, V** or better.
  - C. The issuing company shall provide a thirty (30) day written notice of cancellation to the certificate holder.
  - D. The Owner, Clark Construction Company and the Architect/Engineer shall be listed on the Certificate as **"Additional Insured's"** on the General Liability policy. The additional insured status shall include On-going Operations using **ISO General Liability Form #CG 20 10 01** and Products & Completed Operations using **ISO General Liability Form #CG 2037 10 01** or the insurance companies equivalent coverage endorsement.
  - E. Clark Construction Company is the Certificate Holder.

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SECTION 007316  
INSURANCE REQUIREMENTS

- 1.6. The Trade Contractor shall purchase from and maintain a company or companies' lawfully licensed and authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Trade Contractor from claims set forth which may arise out of or result from the Trade Contractor's operations under the Contract and for which the Trade Contractor may be legally liable whether such operations be performed by the Trade Contractor or by a Subcontractor or by anyone for whose acts any of them may be liable:
- A. Claims under workers' compensation disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
  - B. Claims for damages because of bodily injury, occupational sickness, disease or death of the Trade Contractor's employees;
  - C. Claims for damages because of bodily injury, sickness or disease or death of a person other than the Trade Contractor's employees;
  - D. Claims for damages insured by usual personal injury liability coverage which are sustained (1), by a person as a result of an offense directly or indirectly related to employment of such person by the Trade Contractor, or (2) by another person;
  - E. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
  - F. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of motor vehicle;
  - G. Claims involving contractual liability insurance applicable to the Trade Contractor's obligations under the Contract;
  - H. The Trade Contractor's liability insurance shall be written on a Commercial General Liability basis with coverage at least as broad as an **ISO General Liability Endorsement CG 0001 12 04** or later revised version and such coverage shall specifically include but shall not be limited to:
    - 1. Premises/Operations;
    - 2. Independent Trade Contractor's Protective;
    - 3. Products and Completed Operations;
    - 4. Personal Injury Liability with Employment Exclusion deleted;
    - 5. Contractual, including coverage for Trade Contractor's obligations under its Contract;
    - 6. Owned, non-owned and hired motor vehicles; and
    - 7. Broad Form Property Damage including Completed Operation.
- 1.7. The Trade Contractor shall, for the protection and benefit of the Owner, Clark Construction Company and the Architect/Engineer (hereinafter these parties are collectively referred to as "Trade Contractor Indemnities") and the Trade Contractor and as part of the Trade Contractor's efforts to satisfy the insurance obligation of Section 1. Procure, pay for and maintain in full force and effect at all times

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SECTION 007316  
INSURANCE REQUIREMENTS

during the performance of the Trade Contractor's Work until final acceptance of the Trade Contractor's Work or for such duration as required policies of insurance issued by a responsible carrier or carriers acceptable to the Owner and Clark Construction Company which afford the coverages in the limits set forth below:

**2. LIMITS OF LIABILITY Note: These limits are a minimum. Refer to Prime Contract and provide greater limits if required.**

**2.1. Commercial General Liability including Premises – Operations; Independent Trade Contractor's Protective; Products and Completed Operations; Broad Form Property Damage; Personal and Advertising Injury.**

- A. General Aggregate shall not be less than \$2,000,000/per occurrence and it shall apply in total to this project only using the **ISO General Liability Endorsement CG 2503 03 97** or Trade Contractor's Insurance Carrier's equivalent coverage endorsement.
- B. Products – Completed/Operations Aggregate shall not be less than \$2,000,000 aggregate limit.
- C. Personal and Advertising Injury shall not be less than \$1,000,000 aggregate.
- D. Each Occurrence shall not be less than \$1,000,000.
- E. Fire Damage shall not be less than \$100,000 on any one (1) fire.
- F. Medical Expense shall not be less than \$10,000 on any one (1) person.
- G. Property Damage Liability shall provide X, C and U coverages.
- H. Broad Form Property Damage coverage shall include completed operations.
- I. All such insurance shall be written on an occurrence basis.

**2.2. Automobile Liability**

- A. Automobile liability coverage shall be at least as broad as a CA 00 01 (3-10) or insurance companies equivalent endorsement.
- B. Coverage shall include: Any Auto, Hired Autos and Non-Owned Autos.
- C. Combined Single Limit shall not be less than \$1,000,000.
- D. All such insurance shall be written on an occurrence basis.

**2.3. Excess Liability**

- A. The Umbrella Form is to be provided.
- B. Each Occurrence shall not be less than \$1,000,000 over primary insurance.
- C. Self-Insured Retention (SIR) shall not be more than \$10,000 for each occurrence.
- D. All such insurance shall be written on an occurrence basis.

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SECTION 007316  
INSURANCE REQUIREMENTS

- 2.4. **Workers Compensation and Employers Liability** (including the Proprietor/Partners/Executive Officers)
- A. Workers Compensation coverage shall be at least as broad as an **ISO**
  - B. **Workers Compensation Endorsement WC 00 03 13** or insurance companies equivalent endorsement.
  - C. Each Accident shall not be less than **\$500,000.**
  - D. Disease – Policy Limit shall not be less than **\$500,000.**
  - E. Disease – Each Employee shall not be less than **\$500,000.**
  - F. All such insurance shall be written on an occurrence basis.
- 2.5. **Pollution Liability**
- A. Trade Contractors responsible for remediation, including containerization, transportation, or disposal of any hazardous or toxic wastes, materials, or substances requiring permits or licenses by state or Federal Law or regulation shall maintain Pollution Legal Liability Insurance with limit no less than \$1,000,000.
  - B. Coverage shall apply to sudden and gradual pollution legal liability including defense costs and completed operations.
  - C. All such insurance shall be written on an occurrence basis.
- 2.6. The Trade Contractor hereby agrees to deliver to Clark Construction Company within seven (7) days of the date of the Contract and prior to any equivalent or personnel being brought onto the Project site, certified copies of all insurance policies procured by the Trade Contractor or with consent of the Owner and Clark Construction Company Certificates evidencing the required coverages with limits not less than those specified in Section 1.5 hereto. Trade Contractor's indemnities shall be included as additional insured on Trade Contractor's Commercial General Liability Policy and shall be primary coverage to any valid and collectible insurance carried separately by any of the Trade Contractor's Indemnities. Further, all policies and Certificates of Insurance shall expressly provide that not less than thirty (30) days prior written notice shall be given the Owner, Clark Construction Company, and the Trade Contractor's Indemnities in the event of material alteration, cancellation, non-renewal or expiration of the coverage contained in such policy or evidenced by such certified copy or Certificate of Insurance.
- 2.7. In no event shall any failure of Clark Construction Company to receive certified copies or certificates of policies required under Section 1.0 or to demand receipt of such certified copies or certificates prior to the Trade Contractor commencing the Work be construed as a waiver by the Owner, and Clark Construction Company, of the Trade Contractor's obligations to obtain insurance pursuant to this Section 1.0. The obligation to procure and maintain any insurance required by this Section 1.0 is a separate responsibility of the Trade Contractor and independent of the duty to furnish a certified copy or certificate of such insurance policies.
- 2.8. If the Trade Contractor fails to purchase and maintain or require to be purchased and maintained, any insurance required under this Section, the Owner, or Clark Construction Company, may, but shall

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SECTION 007316  
INSURANCE REQUIREMENTS

not be obligated to, upon five (5) days written notice to the Trade Contractor, purchase such insurance on behalf of the Trade Contractor and shall be entitled to be reimbursed by the Trade Contractor upon demand, or deduct the cost of insurance from the Contract amount.

- 2.9. When any required insurance, due to the attainment of a normal expiration date or renewal date shall expire, the Trade Contractor shall supply the Owner and Clark Construction Company Certificates of Insurance and amendatory riders or endorsements that clearly evidence the continuation of all coverage as is required by this Section. In the event any renewal or replacement policy, for whatever reason obtained or required is written by a carrier other than that with whom the coverage was previously placed or the subsequent policy differs in any way from the previous policy, the Trade Contractor shall also furnish the Owner and Clark Construction Company with a certified copy of the renewal or replacement policy unless, Clark Construction Company provides the Trade Contractor with prior written consent to submit only a Certificate of Insurance for any such policies. All renewal and replacement policies shall be in form and substance satisfactory to the Owner and Clark Construction Company.
- 2.10. Any aggregate limit under the Trade Contractor's liability insurance shall, by endorsement, apply to this Project separately.
- 2.11. The Trade Contractor shall cause each of its Subcontractors to (1) procure insurance reasonably satisfactory to the Owner and Clark Construction Company, and (2) name the Trade Contractor, the Owner, Clark Construction Company, and Architect as additional insured under the Subcontractor's comprehensive general liability policy. The additional insured endorsement included on the Subcontractor's comprehensive general liability policy shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the Subcontractor. If additional insured have other insurance which is applicable to the Project, such other insurance shall be for the purpose hereof, on an excess or contingent basis. The amount of the insurer's liability under this insurance policy shall not be reduced by the existence of such other insurance.
- 2.12. The Trade Contractor shall provide for the Owner, Clark Construction Company, and Architect as additional named insured parties under the comprehensive general liability insurance and completed operations required herein, and the insurance shall be primary and non-contributory.

**3. INDEMNIFICATION**

- 3.1. The Trade Contractor shall secure, defend, protect, hold harmless and indemnify the Owner, Clark Construction Company, including any party that Clark Construction Company is required to indemnify, the Architect and any of their respective agents, servants and employees against any liability, loss, claims, demands, suits, costs, fines, attorney fees, and any expenses whatsoever arising from bodily injury, sickness, disease (including death resulting therefrom), of any persons, or the damage or destruction of any property or Work required by this Contract including loss of use, arising out of, or in connection with, the performance of any Work relating to this Contract including additional Work assigned to the Trade Contractor, based upon any act or omission, negligent or otherwise, (including active or passive negligence) of (a) the Trade Contractor or any of its agents, employees or servants, (b) any Sub/Subcontractor, supplier, or materialman of the Trade Contractor, or any agents, employees or servants thereof, (c) any other person or persons. The obligations of indemnification contained herein shall exclude only those matters in which the claim is caused by the sole negligence of the Owner, the Architect, Clark Construction Company, or any of their respective agents, servants and employees. The obligations herein shall apply regardless of whether such suits, damages, judgments, liabilities, interest, attorney fees, costs, etc., are caused in part by a

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SECTION 007316  
INSURANCE REQUIREMENTS

party indemnified hereunder or by anyone acting under their direction, control, or on their behalf. Also the obligations herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Trade Contractor under workmen's compensation act, disability benefits act or other employee benefits act. This obligation for Indemnification shall survive the completion of the Contract.

- 3.2. In the event an Indemnified Party (Clark Construction Company, the Owner, the Architect) takes any action, to enforce the Indemnification Provision (3.1) the Indemnified Party shall be entitled to payment of actual attorney fees and costs incurred including all actual attorney fees and costs incurred by the Indemnified Party to enforce the Indemnification Provision from the Trade Contractor.

**4. WAIVER OF SUBROGATION**

- 4.1. A waiver of subrogation shall be provided by the Trade Contractor's insurance carrier for general liability and workers compensation related claims.

END OF SECTION

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SECTION 012100  
ALLOWANCES

**1. GENERAL**

- 1.1. Drawings and General Provisions of the Contract, including General and Supplementary Conditions, Division 00 - Bidding and Contracting Requirements and Division 01 - General Requirements Specification Sections, apply to the Work of this Section.

**2. LUMP SUM ALLOWANCES**

- 2.1. Bidder shall include, in its base Bid amount, allowances itemized in the Bid Proposal Form for its Bid Category.
- 2.2. Work shall not be performed and funded from the allowance without written direction from the Construction Manager.
- 2.3. Work performed which is to be funded from the allowance shall be monitored and signed for on a daily basis by the Construction Manager. The Trade Contractor shall be solely responsible for pursuing daily signed verification.
- 2.4. Claims for Work performed that are not accompanied by a signed ticket in accordance with the Contract shall be rejected. Payment will not be approved.
- 2.5. A line item shall be included in the Payment Schedule of Values for each allowance.
- 2.6. Unused portions or entire amounts of funds under allowance shall be credited by deductive change order when directed by the Construction Manager.
- 2.7. Lump sum allowance shall include all costs of labor and material, equipment, incidentals, supervision, overhead and profit.

**3. MATERIAL ALLOWANCES**

- 3.1. Allowances for a specific material shall cover all material related cost including taxes, freight and delivery cost to the Project site. All other costs including labor, overhead and profit and incidentals shall be included in the base Bid.

END OF SECTION



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SECTION 012300  
ALTERNATES

**1. GENERAL**

- 1.1. Drawings and General Provisions of the Contract, including General and Supplementary Conditions, Division 00 - Procurement and Contracting Requirements and Division 01-General Requirements Specifications and Addenda, apply to the Work of this Section.
- 1.2. Alternate Work shall include miscellaneous devices, accessories and other items incidental to or required for a complete installation whether or not indicated as part of the alternate.
- 1.3. Base bid amounts shall be in accordance with the Bid Documents and shall not include additional or deducted costs for alternates.
- 1.4. Cost for Labor and Material Performance and Payment Bonds, if such bonds are required by the Contract Documents, shall be included in the cost of the alternate.

**2. VOLUNTARY ALTERNATES**

- 2.1. Bidders may propose alternative materials to those specified in the form of a Voluntary Alternate.
- 2.2. Proposals for voluntary alternates shall accompany the base bid proposal with additional cost to or cost to be deducted from the base bid amount. Voluntary Alternate costs shall not be included in the base bid amount.

**3. SPECIFIED ALTERNATES**

- 3.1. Alternate material or Work to the base bid is itemized and described in this section and in the Contract Documents.
- 3.2. Bidders shall carefully review the proposed alternate to be fully informed as to the material, incidental material and Work to be performed. Bidder shall not later than five (5) days prior to the date for receipt of bids, make written request for interpretation or correction of any ambiguity, inconsistency or error discovered.
- 3.3. Each bidder shall submit with his proposal in the space provided on the Bid Proposal Form alternate proposals stating the additions to or deductions from the base bid lump sum amount for substituting, omitting, adding, changing, or altering materials, equipment or construction from that indicated on the Drawings and/or Specifications.
- 3.4. The Owner and Construction Manager reserve the right to waive any irregularities, reject, any or all alternates, which in its opinion serve the Owner's best interest.

**4. SUMMARY OF REQUESTED ALTERNATES**

None

END OF SECTION

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SECTION 012600  
CONTRACT MODIFICATION PROCEDURES

**1. GENERAL**

- 1.1. Trade Contractors shall not proceed with any Change in the Work without written direction to proceed by the Construction Manager. Increases to the Contract will not be allowed for any extra Work performed by the Trade Contractor without this written authorization to perform the Work signed by the Owner.
- 1.2. The Architect may issue documentation for Changes in the Scope of Work in the form of Bulletins or other form as provided in the Contract Documents. The Construction Manager may issue documentation for minor Changes in the Work that does not change the Contract price.

**2. PROCESS**

- 2.1. Change documentation issued by the Architect to the Construction Manager for review will in turn be transmitted to the affected Trade Contractors for quotation of cost.
- 2.2. The Trade Contractor shall provide written quotations for Changes in the Work within seven (7) days unless otherwise noted in the request for quotation. All quotations must be submitted on the contractor quotation form. A sample is attached.
- 2.3. Written quotations shall be broken down in detail as required by Clark Construction Company. Quotation breakdown for Changes in the Work as a minimum shall include actual labor cost (hours x Clark Construction Company approved direct labor cost), itemized material cost, itemized equipment cost, overhead and profit.
- 2.4. The Trade Contractor shall submit a response to the Construction Manager regarding the proposed Change within the specified time period regardless of whether the Change involves a Change in the Contract price or not.
- 2.5. Should the Trade Contractor fail to respond within the specified time period, and after a second request by the Construction Manager and still no response received from the Trade Contractor within an additional seven (7) days, the Construction Manager will assume that the Trade Contractor has reviewed the proposed Change document and that no additional costs are associated with the Work. The Trade Contractor shall be held to complete any Work associated with the Change at no increase to the Contract.
- 2.6. In the event of credits to the Contract for deleted Work which is not quoted by the Trade Contractor as noted above, the Construction Manager shall calculate a credit cost based on local industry standards for the Work and submit a quotation on behalf of the Trade Contractor and subsequently issue a deduct Change Order.
- 2.7. Upon acceptance of the proposed cost quotations by the Construction Manager, the Construction Manager will prepare and issue a Change Order for approval by the Architect and Owner.
- 2.8. Following approval of the Trade Contractor quotation by the Architect and Owner, the Construction Manager will issue a Change Order to the Trade Contractor for the Change in Work. Only after receipt of the written Change Order from the Construction Manager and execution by the Trade Contractor may the Trade Contractor include related Work on its Application for Payment.

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SECTION 012600  
CONTRACT MODIFICATION PROCEDURES

- 2.9. The Construction Manager may direct the Trade Contractor in writing to proceed with the Work at any point in time prior to formal approval of the Change Order. The Trade Contractor shall promptly proceed with the Work.
- 2.10. The Construction Manager reserves the option to instruct a Trade Contractor to proceed with Work on a time and material cost basis.

**3. COMPENSATION FOR CHANGES IN THE WORK**

- 3.1. The price to be paid for Change in the Work shall be the actual and reasonable cost of:
- A. Necessary materials (including transportation to the site); plus
  - B. Necessary direct labor cost (direct labor shall be limited to amounts paid to employees for hourly wages, fringe benefits, and payroll taxes). (Refer to "Labor Rate Calculation" form included in Certificates and Forms section); plus
  - C. All insurance required by reason of the performance of the extra Work; plus
  - D. Payments required to be made to labor organizations under existing labor agreements, plus;
  - E. Sales and personal property taxes, if any, required to be paid on materials incorporated in such extra Work; plus
  - F. Maintenance, operation, and rental of, or reasonable rental value of, contractor-owned, necessary plant and equipment other than small tools (including gas, oil, electric current, etc.); plus
  - G. Necessary installation and dismantling of such plant and equipment (including transportation to and from the site), if any items; plus
  - H. For Work performed by Trade Contractor's own forces ten percent (10%) of the total of Items A through G as compensation for all other items of cost or expense including administration, overhead, general superintendence, small tools and profit; plus
  - I. For Work performed by Trade Contractor's subcontractors – Trade Contractor shall add five percent (5%) of the total subcontractor cost (unless otherwise required by Clark Construction Company's Contract with the Owner) as compensation for all other items of cost or expense including administration, overhead, general superintendence, small tools and profit for Trade Contractors.
  - J. For Work performed by Trade Contractor's Subcontractors – subcontractors for their work shall add fifteen percent (15%) (unless otherwise required by Clark Construction Company's Contract with the Owner) of the total of Items A through G as compensation for all other items of cost or expense including administration, overhead, general superintendence, small tools and profit for Trade Contractors.
- 3.2. Reference Certificates and Other forms 006200 for Sample Trade Contractor Change Order.

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SECTION 012600  
CONTRACT MODIFICATION PROCEDURES

**4. Labor Rates and Quotation Form**

- 4.1 All quotations for extra work must be submitted on the contractor quotation form. Quotes submitted not on this form will not be reviewed.
- 4.2 Labor rates must be submitted on the enclosed labor rate breakdown form prior to award of contract for review by Clark Construction Company.

END OF SECTION

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SECTION 012900  
PAYMENT PROCEDURES

**1. GENERAL**

- 1.1. Payment procedures shall be strictly adhered to as a condition of payment.

**2. PROJECT START-UP DOCUMENTATION**

- 2.1. Prior to beginning Work at the project site, the following documentation shall be submitted to and approved by Clark Construction Company:
- A. Current Certificate of Insurance with appropriate limits and Owner, Architect and Clark Construction Company named as additional insured. Contract Number and project description shall be noted on the Certificate of Insurance. (Refer to “Insurance Requirements” section).
  - B. Contract must be returned executed and acceptable to Clark Construction Company.
  - C. Clark Construction Company “Safety Requirements” letter must be completed and fully executed.

**3. APPLICATION FOR PAYMENT**

- 3.1. All Applications for Payment shall be submitted in the AIA G702 and G703 format.
- 3.2. A Sworn Statement and Waivers of Lien as applicable shall be submitted with Applications for Payment. Applications which are not accompanied by an appropriate Sworn Statement will be rejected.
- 3.3. Payment applications which include application for payment for stored materials shall be accompanied by a Materials Stored Payment Form (Refer to “Certificates and Other Forms” section).
- 3.4. Payment applications will be submitted through Textura on or before the 25<sup>th</sup> of each month. Late billings will not be processed for payment. Late billings shall be resubmitted for payment the following month by the Trade Contractor.
- 3.5. The following shall be clearly stated on all Applications for Payment:
- A. Trade Contractor name
  - B. Address
  - C. Telephone number
  - D. Contract Number
- 3.6. All paperwork associated with each Application for Payment shall be submitted through Textura.

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SECTION 012900  
PAYMENT PROCEDURES

**4. CONSTRUCTION PAYMENT MANAGEMENT (CPM)**

- 4.1. Trade Contractor applications for payment shall be submitted electronically through the Textura Construction Payment Management program (CPM). The CPM will expedite the payment application process in addition to the following benefits.
- A. Automatic generation of AIA G702/703 and lien release documents
  - B. Email notification as the payment process progresses
  - C. Timely response to payment application questions
  - D. Real-time visibility into compliance status
  - E. Expedited direct electronic payments
  - F. Email notification of electronic direct deposit payments made
- 4.2. A nominal fee will be charged to each Contractor for use of the Textura CPM service payable to Textura as follows.

<u>Contract Amount</u>	<u>Contractor Cost</u>
\$0 – 27,777	\$50.00
\$27,778 - \$1,388,888	.18% of contract amount
\$1,388,889+	\$2,500

- 4.3. Additional information can be found on the Textura website at [www.texturacorp.com](http://www.texturacorp.com).
- 4.4. Trade Contractors shall take part in a Textura\_training webinar. Textura Consultants facilitate webinars three times per week, Monday / Wednesday / Friday. Register for this training webinar at:  
<http://www.texturacorp.com/training/webinarschedule.htm>
- 4.5. After taking part in the training session Contractors may call Textura Customer Support team at 866-TEXTURA (866-839-8872) for additional assistance in using the Textura service. The call center is staffed from 8am– 9pm ET.

END OF SECTION

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SECTION 012973  
SCHEDULE OF VALUES

**1. GENERAL**

- 1.1. Trade Contractor shall submit to the Construction Manager for approval, a Schedule of Values prior to award of Contract.
- 1.2. Upon request by the Construction Manager, the Trade Contractor shall submit supporting data to substantiate the accuracy of the values provided.
- 1.3. The Schedule of Values as approved by the Construction Manager shall be used as the basis of all applications for payment.

**2. FORM OF SUBMITTAL**

- 2.1. The Schedule of Values shall be broken down sufficiently and as approved by the Construction Manager for ease of assessment of work completed throughout performance of the Work.
- 2.2. Each line item value shall be broken down into labor and material components including overhead and profit. The aggregate value for all items shall be equal to the Contract sum.
- 2.3. Trade Contractor shall provide further breakdown as Work progresses if required by the Construction Manager.
- 2.4. The following items shall be included in the Schedule of Values as a minimum:
  - A. Performance and Labor and Material Payment Bonds (if applicable)
  - B. Mobilization
  - C. Field Supervision, Layout, Barricades and Safety Precautions, Temporary Office and Equipment
  - D. Shop Drawings, Submittals and Samples
  - E. Project Clean-up
  - F. Closeout (The following items shall be included in addition to the contract required retention amount)
    - 1. As-Built Documents 1.0% of Contract Amount
    - 2. Training and O&M Manuals 1.0% of Contract Amount
    - 3. Attic Stock Material 0.5% of Contract Amount
    - 4. Punchlist Completion 2.0% of Contract Amount
    - 5. Warranty & Guarantee Documents 0.5% of Contract Amount

END OF SECTION

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SECTION 013119  
PROJECT MEETINGS

1. **GENERAL**

- 1.1. Trade Contractor, Project Manager and Superintendent and/or Foreman shall attend and participate in meetings indicated in this section and other meetings as required by the Construction Manager.
- 1.2. Trade Contractor representative attending meetings shall be fully informed and have authority to make decisions for the Trade Contractor.

2. **PRE-AWARD CONFERENCE**

- 2.1. Pre-Award Conference Meetings will be held prior to award of Contract to review conditions, requirements of the Contract and Scope of Work.

3. **PULL PLANNING MEETINGS**

- 3.1. Trade Contractor representatives shall attend One (1) Pull Planning Meeting (Project Master Scheduling) conducted by the Construction Manager. Trade Contractor representatives required to attend shall include at a minimum the Project Manager and the on-site Foreman. Representatives attending the meeting shall have detailed knowledge of the scope of work as well as trade hour requirements to accomplish the work.
- 3.2. Project Master Scheduling Meeting durations are typically 1 full day (8 hours).
  - a. Trade Contractor representatives shall attend Weekly Pull Planning Meetings conducted by the Construction Manager. These meetings are in conjunction with the Weekly Progress Meetings.

4. **PRE-INSTALLATION MEETINGS**

- 4.1. Trade Contractor representative attending meetings shall be fully informed and have authority to make decisions for the Trade Contractor. In attendance should be the trade contractors' project manager and superintendent.
- 4.2. Pre-Installation Meeting Agenda
  - A. Drawing & Specification Review
  - B. Installation
  - C. Construction Schedule – Three Week Look Ahead Schedule
  - D. Testing & Inspections
  - E. Safety / Clean Up
  - F. Environmental Impacts
  - G. Warranty Requirements
  - H. Misc. / Other Items



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SECTION 013119  
PROJECT MEETINGS

5. **PROGRESS MEETINGS**

5.1. Attend Project Progress and Coordination Meetings held weekly by the Construction Manager and attended by others.

5.2. Progress Meeting Agenda

A. **SAFETY**

1. Clark Construction Company's Safety Policy
2. Tool Box Talks
3. Observed Violations/Safety Inspections
4. Housekeeping and clean-up
5. Temporary barricades, protection and lighting
6. Accident Reports
7. Safety Data Sheets (SDS)
8. Emergency contacts

B. **ADMINISTRATION**

1. Review current Document List
2. Submittal status
3. Applications for Payment
4. Insurance/Bonds
5. Manpower reporting
6. Permits and approvals
7. Governmental issues
8. Eventual closeout requirement

C. **CHANGES IN WORK**

1. Potential Change Order Log/Bulletins/Field Orders
2. RFI Status Report
3. Change Orders
4. Cost related issues

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SECTION 013119  
PROJECT MEETINGS

D. FIELD OBSERVATIONS

1. Problem resolutions
2. Conflict resolutions
3. Quality Control/workmanship – Notice to Comply Log
4. Material storage and site staging issues
5. Installation procedures
6. Field condition issues
7. Design issues

E. SCHEDULE

1. Milestone dates
2. Short term schedule/three week look ahead schedule
3. Material/equipment deliveries
4. Long lead items
5. Manpower
6. Submittals
7. Sequencing/coordination issues
8. Occupancy issues – work completion and punchlist
9. Pre Task Plan

F. ENVIRONMENTAL ISSUES

1. Review operational controls for significant aspects
2. Complaints/corrective actions required

END OF SECTION

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SECTION 013323  
SHOP DRAWINGS, PROJECT DATA AND SAMPLES

**1. DEFINITIONS**

- 1.1. Shop drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Trade Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.
- 1.2. Product data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Trade Contractor to illustrate a material, product or system for some portion of the Work.
- 1.3. Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

**2. SUBMISSION REQUIREMENTS**

2.1. Shop Drawings

- A. Trade Contractor shall furnish all shop drawings through Connect.
- B. Shop drawings shall follow or be keyed to the nomenclature, terminology and symbolism of the Contract Documents and shall be identified by the Bid Category designation.
- C. A copy of the shop drawings will be returned to the Trade Contractor through Connect with review comments.

2.2. Product data

- A. Submit manufacturer's product data printed literature, catalogs, pre-printed drawings and brochures for the Construction Manager's and Architect's review through Connect.
- B. Submittals shall be identified by the CSI Specification section, location within the building and a descriptive explanation as to the materials intended use.
- C. A copy of submitted product data will be returned to the Trade Contractor through Connect with review comments.

2.3. Samples

- A. Submit four (4) samples to illustrate functional and aesthetic characteristics of the product, with integral parts and attachment devices. Coordinate sample submittals for interfacing Work.
- B. Submit samples of finishes from the full range of manufacturer's standard colors, textures and patterns for Architect's selection.
- C. Include identification on each sample, with full project information.

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SECTION 013323  
SHOP DRAWINGS, PROJECT DATA AND SAMPLES

- D. Submit four (4) samples unless otherwise specified in individual Specification sections, two (2) of which will be retained by the Architect.
- E. Reviewed samples which may be used in the Work are indicated in individual Specification sections.

**3. MANUFACTURER'S INSTALLATION INSTRUCTIONS**

- 3.1. When specified in individual Specification sections, submit manufacturer's printed instructions for delivery, storage, assembly, installation, start-up, adjusting and finishing, in quantities specified for product data.
- 3.2. Indicate special procedures, perimeter conditions requiring special attention and special environmental criteria required for application or installation.

**4. MANUFACTURER'S CERTIFICATES**

- 4.1. When specified in individual Specification sections, submit manufacturer's certificate for review, in quantities specified for product data.
- 4.2. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits and certifications as appropriate.
- 4.3. Certificates may be recent or previous test results on material or product, but must be acceptable to the Architect.

**5. TRADE CONTRACTOR RESPONSIBILITIES**

- 5.1. The Trade Contractor shall review, check, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the Work of the Owner or any separate Trade Contractor, all shop drawings, product data and samples required by the Contract Documents.
- 5.2. Shop drawings shall be thoroughly reviewed and approved by the Trade Contractor before submitting to the Construction Manager.
- 5.3. The Construction Manager will not review any shop drawings which are not reviewed and approved by the Trade Contractor prior to submittal.
- 5.4. By approving and submitting shop drawings, product data and samples the Trade Contractor represents that he has determined and verified all materials, field measurements and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- 5.5. Trade Contractors shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Construction Manager's or Architect/Engineer's review of shop drawings, product data or samples unless the Trade Contractor has specifically informed the Construction Manager in writing of such deviation at the time of submission and the Architect/Engineer has given written approval to the specific deviation.

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SECTION 013323  
SHOP DRAWINGS, PROJECT DATA AND SAMPLES

- 5.6. The Trade Contractor shall not be relieved from responsibility for error or omissions in the shop drawings, product data or samples by the Construction Manager's review thereof.
- 5.7. The Trade Contractor shall direct specific attention, in writing or on resubmitted shop drawings, product data or samples, to revisions other than those requested by the Construction Manager on previous submittals.
- 5.8. No portion of the Work requiring submission of a shop drawing, product data or sample shall be commenced until the submittal has been approved by the Architect/Engineer. All such portions of the Work shall be in accordance with approved submittals.
- 5.9. After final review by the Architect/Engineer, the Trade Contractor shall furnish prints from the transparencies of all approved shop drawings, as required by construction operations in the field, to the Construction Manager for distribution to the Trade Contractor affected.
- 5.10. The requirements that corrections be made on shop drawings, or delay in resubmittal of shop drawings, shall not be justification for delay of the progress of the Work.
- 5.11. Extreme care is to be used in distribution of all drawings, shop drawings, equipment cuts and operating instructions to protect the Owner. These items shall be kept in strict confidence and all copies shall be accounted for.

**6. ARCHITECT'S ACTION**

- 6.1. Except for submittals for the record and similar purposes, where action and return on submittals is required or requested, the Architect will review each submittal, mark with appropriate "action" and return as soon as possible. Where the submittal must be held for coordination, the Construction Manager will so advise the Trade Contractor.
- 6.2. The architect will stamp each submittal to be returned with a uniform, self-explanatory action stamp, appropriately marked.

END OF SECTION

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

**1. GENERAL**

- 1.1. Clark Construction Company holds health and safety to be its highest priority at all times, under every circumstance.
  - A. Health and safety shall govern every course and method of action.
  - B. Potential risk to health and safety shall be evaluated prior to commencement of all work activities. Work practices shall be employed which create conditions free of potential injury.
  - C. An environment of concern for the health and safety of each person shall be promoted on the project site.
- 1.2. Trade Contractor shall be responsible to take all necessary precautions for the safety of employees, others working on the project site and the general public.
- 1.3. Trade Contractor shall comply with all applicable federal, state and local health, safety and environmental laws, codes and requirements.
- 1.4. Trade Contractor shall assure that each of its employees, and employees of its subcontractors and material suppliers on the project site are familiar with and abiding by all aspects of the Trade Contractor Health and Safety Plan.
- 1.5. Provisions contained herein shall not relieve the Trade Contractor of its obligations and liabilities under federal, state and local laws including all additions and revisions thereto. Nor shall any provision herein transfer obligations and/or liabilities of the Trade Contractor to Clark Construction Company.

**2. TRADE CONTRACTOR RESPONSIBILITIES**

- 2.1. Trade Contractors and subcontractors and material suppliers to the Trade Contractor at any tier shall comply with all health, safety and environmental requirements. Clark Construction Company shall have authority over such subcontractors and material suppliers at any tier to same extent it has over the Trade Contractor.
- 2.2. Trade Contractor Health and Safety Program and Hazard Communication Program Documentation:
  - A. Trade Contractor shall have in place and implement a comprehensive written Health and Safety and Hazard Communication Program. Trade Contractor shall ensure that all of its subcontractors and material suppliers at any tier adhere to the Health and Safety Program, Hazard Communication Program and all health, safety and environmental requirements of the Contract.
  - B. Trade Contractor, its subcontractors and material suppliers at any tier shall provide its current electronic Health and Safety Program and Hazard Communication Program to Clark Construction Company for review and acceptance as a condition of award of a Contract. Clark Construction Company will receive and keep such program on file to completion of the project.

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

- C. Trade Contractor shall ensure that subcontractors and material suppliers to the Trade Contractor at any tier have in place and implement a comprehensive Health and Safety and Hazard Communication Program.
- D. Trade Contractor and its subcontractors and material suppliers at any tier shall have on site and available at all times for its employees and Clark Construction Company, a current copy of its Health and Safety and Hazard Communication Program.
- E. Health and Safety and Hazard Communication Programs shall be supplemented by the Trade Contractor and any of its subcontractors and material suppliers at any tier with a project specific Health and Safety and Hazard Communication Plan ensuring compliance to all requirements of the Contract Documents and project conditions as required.

**2.3. Designated Safety Representative**

- A. Trade Contractor shall designate a safety representative from the site staff in addition to any craft safety representative when less than 40 employees of the Trade Contractor and/or subcontractor employees are working on the project site. Anytime 40 or more employees of the Trade Contractor and/or subcontractor employees are working on the project site the Trade Contractor shall have a full time safety representative on site responsible 100% of his/her time to health and safety.
- B. Trade Contractor shall provide Clark Construction Company with a contact telephone number of a representative of the Trade Contractor that can take action and may be contacted 24 hours per day, seven days per week in the event of an emergency.
- C. Safety Representative shall:
  - 1. have adequate training and experience as required by applicable regulations and be knowledgeable in health and safety aspects of the Work to be performed;
  - 2. have authority to make decisions and take action relative to health and safety on behalf of the Trade Contractor, its subcontractors and material suppliers;
  - 3. participate in Clark Construction Company Preconstruction Health and Safety Meetings, other project health and safety meetings and hazard identification walk-through meetings as required by Clark Construction Company; and
  - 4. assure immediate correction of any health and safety and environmental issues by the Trade Contractor at the Trade Contractor's expense and report corrective action taken to Clark Construction Company in writing.

**2.4. Regulations/Compliance**

- A. Trade Contractor shall comply with the current Federal Occupational Safety and Health Act (OSHA), current State Health and Safety requirements, other applicable federal, state and local requirements, health and safety requirements of the (sub) Contract and environmental regulations.
- B. Cost of correction of health and safety infractions shall be paid by the Trade Contractor.

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

**2.5. Disciplinary Action/Termination**

- A. In response to Trade Contractor's failure to comply with health and safety and environmental requirements or otherwise performing in an un-safe manner Clark Construction Company shall have authority to:
  - 1. order immediate Work stoppage and corrective action to be taken by the Trade Contractor;
  - 2. withhold any payments due to the Trade Contractor; and
  - 3. take action to correct any issue which is not corrected by the Trade Contractor in an acceptable time period.
- B. Trade Contractor shall be responsible to ensure compliance by all employees, subcontractors and material suppliers' employees at any tier. Trade Contractor supervision unable or unwilling to secure safe performance by these employees shall be deemed unqualified and the Trade Contractor shall, upon direction of the Construction Manager, replace the unqualified person with a qualified person.
- C. Trade Contractor, subcontractor and material supplier employees as a condition of working on the project site shall comply with all health, safety and environmental regulations and requirements.
- D. In response to Trade Contractor, subcontractor and material supplier employee(s) failure to comply with health, safety and environmental requirements or otherwise performing in an unsafe manner, Clark Construction Company shall have authority to take action up to and including barring an individual from the project site.
  - 1. Disciplinary actions may be implemented against employee(s) of the Trade Contractor, subcontractor and material supplier by Clark Construction in response to violations of health and safety and environmental requirements as follows:
    - a. first notice: verbal and/or written notification to the Trade Contractor;
    - b. second notice: written notification to the Trade Contractor;
    - c. third notice: termination of the employee from the project;
    - d. Clark Construction Company may at its discretion immediately bar the employee(s) in violation from the project site without a first or second notice if in the opinion of Clark Construction Company the violation warrants such action.

**2.6. Health and Safety Implementation Planning**

- A. Prior to the Trade Contractor beginning work on the project site the Trade Contractor shall develop and submit a detailed Project Specific Safety Plan as required by Clark Construction Company.



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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

- B. The Project Specific Safety Plan shall be revised as project conditions and activities change.

**2.7. Employee Training**

- A. Trade Contractor shall provide health and safety training to each of its employees as required by governing health and safety authorities and shall provide training as required to perform specific duties in a safe manner.

**2.8. Weekly Health, Safety and Environmental Pre-Task Planning**

- A. On a weekly basis prior to performing the Work the Trade Contractor supervisor or foreman shall submit a Weekly Pre-Task Plan (409FR041), for Work to be performed, to Clark Construction Company's Superintendent.
- B. Pre-task planning shall identify sequence of Work, required personal protective equipment, potential hazards, other persons, property and potentially affected environment, and action to be taken to eliminate risks.
- C. Pre-Task plans shall be reviewed with all personnel involved in the execution of the Work and other personnel on site that may be affected or have need to be made aware.

**2.9. Meeting Attendance**

- A. All Trade Contractor employees shall be required to attend;
  - 1. A project orientation session the first day the employee is on the project site prior to start of any Work activity. Orientation sessions will be approximately one hour long;
  - 2. Weekly "Tool Box Talk" meetings shall be conducted by the Trade Contractor with topics of discussion relevant to the Work to be performed and project site conditions. Attendees shall sign the weekly "Tool Box" meeting notes. "Tool Box" meeting attendance sheets shall be submitted to Construction Manager;
  - 3. Other health, safety and environmental meetings as may be required by Clark Construction Company.

**2.10. Safety Guide Program**

- A. Each tradesperson, prior to beginning work on the project site, will be provided with and shall read thoroughly and understand Clark Construction Company's Safety Guide information (Refer to CCC Form)
- B. Tradespersons after fully understanding the information shall sign and return the Safety Guide to Clark Construction Company.
- C. All tradespersons working on the project site shall have Clark Construction Company's safety sticker on their hard hat signifying participation in the Safety Guide Program.

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

**2.11. First Aid/CPR Training**

- A. Each Trade Contractor shall have a minimum of one First Aid/CPR trained person on the project site whenever work is being performed by its employees.
- B. Each Trade Contractor shall have a first aid supply kit on site available to its employees.

**2.12. Communication/Foreign Languages**

- A. In the event that one or more Trade Contractor employees working on site do not speak the English language fluently, the Trade Contractor shall assure that a minimum of one of its employees on site is fluent in the English language as well as the language of non-English speaking employee(s).
- B. The employee fluent in both languages shall be on site at all times when a non-English speaking employee is on site and shall have authority to make decisions and take action on behalf of the Trade Contractor.

**2.13. Housekeeping**

- A. Trade Contractors shall maintain the project free of debris.
- B. Thoroughly clean up on a daily basis and more frequently as required.
- C. Debris shall be transported to dumpsters on a daily basis.
- D. Material and equipment in storage and in use shall be located out of means of ingress, egress; stairways, walkways, etc.
- E. Location of stored material and equipment shall be coordinated with Clark Construction Company and other trades.

**3. HEALTH AND SAFETY ORIENTATION**

**3.1. General**

- A. Trade Contractor shall notify Clark Construction Company Superintendent of any employee arriving on the project site for the first time. Trade Contractor shall schedule a project-specific orientation sessions to be conducted prior to the employee performing work on-site. The orientation session will be conducted by a Clark Construction Company representative.
- B. Trade Contractor shall provide project-specific orientation training with each of its employees specific to the work to be performed to assure a safe project environment for all.
- C. Trade Contractor shall assure that employees visiting the site for meetings, project review, or other “non-trade Work” related activities and walking into or through construction areas, shall attend an abbreviated Health and Safety Orientation Session.

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

**3.2. Orientation Sessions**

- A. The following topics may be reviewed at the Health and Safety Orientation Session.
1. Trade Worker Orientation Sessions
    - a. Clark Construction Company site safety representative contact information
    - b. Emergency contact information
    - c. First Aid supply location
    - d. Personal protective equipment (PPE) and clothing requirements
    - e. Health and Safety General Rules
    - f. Clark Construction Company's Safety Guide Program (to be signed by each Trade Contractor employee).
    - g. Fire Protection and Prevention Plan Hazard Communication Program and SDS file location
    - h. Accident and incident reporting
    - i. Environmental Program
    - j. Cell Phone and Electronic Device Policy
  2. Non-Trade Worker Orientation Sessions
    - a. Clark Construction Company's site safety representative\_\_contact information
    - b. Emergency contact information
    - c. First Aid supply location
    - d. Personal protective equipment (PPE) and clothing requirements
    - e. Cell Phone and Electronic Device Policy

**4. EMERGENCY RESPONSE PLAN**

**4.1. Medical Services**

- A. Prior to commencement of work Trade Contractor shall;
1. make provisions for prompt medical attention in the event of a serious injury;
  2. ensure that adequate first aid supplies are easily accessible when needed;

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

3. provide proper equipment for prompt transportation of the injured person to proper medical care or system for contacting necessary ambulance service;
- B. In the event of any incident or accident the following procedure shall ensue.
  1. Attend to the injured party and/or stabilize the area as may be required.
  2. Contact 911 as required.
  3. Notify Clark Construction Company's project superintendent when first aid is being administered.
  4. Assist in ascertaining and reporting events surrounding the incident or Accident.
  5. Trade Contractor or injured person shall;
    - a. Complete an Incident Observation Report (409FR012) and provide a copy to Clark Construction Company site safety representative.
    - b. Provide status reports to Clark Construction Company's site safety representative as conditions require.
    - c. Participate in accident/incident investigation meetings for the purpose of establishing the "Root Cause" of the accident or incident.

**4.2. Emergency Evacuation Plan**

- A. Have a sounding device and a sign to identify it as an evacuation alarm instructing all personnel to sound three short blasts in the event of emergency (a car horn or air horn can be used).
- B. Pre-determine a meeting place to account for all personnel.
- C. Each Trade Contractor's Designated Safety Representative shall account for all personnel to arrive at the pre-determined meeting place in the event of an emergency.
- D. All persons working on-site shall be familiar with emergency egress routes from their position on the project at all times.

**4.3. Blood-Borne Pathogens**

- A. In accordance with OSHA, Trade Contractors shall assure that each employee exposed or potentially exposed to blood and other infectious materials be advised of the potential Blood-borne pathogen hazards and how to guard against those hazard.

**5. CRISIS COMMUNICATION PLAN**

- 5.1. Clark Construction Company will designate a spokesperson to make all public comments during a crisis situation.

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

- 5.2. Trade Contractor personnel are encouraged to refrain from comments to the media. Trade Contractor employees are encouraged, questioned by the media, to state “The incident is being investigated and Clark Construction Company’s spokesperson will make a statement shortly”.

**6. PERSONAL PROTECTIVE EQUIPMENT AND CLOTHING**

- 6.1. Personal protective equipment and clothing shall be worn on the project site with exception of construction office areas separated from construction work.

- 6.2. Personal protective equipment shall meet the most stringent standard established by federal, state and local authorities, requirements of the employer or Clark Construction Company.

**6.3. Personal Protective Equipment**

- A. Hard hats shall be worn at all times on the project site with exception of construction office areas separated from construction work.
- B. Safety glasses shall be worn at all times on the project site with exception of construction office areas separated from construction work.
- C. Safety vest and/or shirt of high visibility fluorescent colored fabric shall be worn when ever performing project site construction activities or in the vicinity of moving site work equipment.

**6.4. Clothing**

- A. Shirt sleeve lengths shall be a minimum of four inches.
- B. Shirts cut off above the waist are not allowed.
- C. Pants shall extend to cover ankles.
- D. Shorts are not allowed.
- E. Work boots shall extend to protect the ankle.
- F. Clothing shall be worn in a neat fashion and be in good repair.
- G. Clothing imprinted with language or images as determined by Clark Construction Company to be offensive in any way or advertise and/or promote the use of alcohol or illegal substances shall not be worn on the project site.

**7. CELL PHONE AND ELECTRONIC USE POLICY**

**7.1. Cell phone and electronic devise use**

- A. Cell phone use includes listening, talking, texting, emailing, net surfing or other cell phone device activity.
- B. “Electronic device” includes any internet reception, video, electronic tablets, computers, Bluetooth, walkie-talkies, etc.

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

- C. Cell phone and electronic device use is allowed only in hazard free areas.
  - D. Cell phone and electronic device users shall remain stationary, no walking during cell phone or electronic device use.
  - E. Persons not designated as Foreman, Superintendent, Manager, General Foreman, may use a cell phone or electronic device only during breaks in a hazard free area.
  - F. Cell phone and electronic device use is not allowed;
    - 1. While engaged in any job task which requires the use of the hands and/or other attention to work activity.
    - 2. While operating equipment, tools or motorized vehicles including cars, trucks and motorized carts, etc.
  - G. Motorized vehicles must be parked in a location free of hazards and turned off while using a cell phone or electronic device.
- 7.2. Crane and other lifting device cell phone and walkie-talkie use
- A. Cell phones and walkie-talkies shall not be used while operating a crane, hoist, powered industrial trucks or other lifting device (unless identified in a Pre-Task Plan requiring communication for ground person to Operator).
  - B. Cell phones must be turned off whenever in the control cab or at the control panel unless identified for use in a Pre-Task Plan.
  - C. No communications other than directly between the lift coordinators. Pre-Task planning shall include the communication method/plan.

**8. SUBSTANCE ABUSE POLICY**

- 8.1. Clark Construction Company is committed to an alcohol and drug free work environment.
- A. Possession, distribution, or sale on the project premises, facility, or other work places of alcoholic beverages, intoxicants, drugs and related drug paraphernalia is strictly prohibited.
  - B. Person's shall not report for duty or perform work while under the influence of any drug, alcoholic beverage, or intoxicant.

**9. SAFE WORK REQUIREMENTS**

**9.1. Asbestos Abatement**

- A. Trade Contractors shall assure that any employee that may be exposed to airborne asbestos fibers shall be trained in the recognition of the hazards and appropriate controls.
- B. Trade Contractors engaged in asbestos abatement shall be licensed by the Department of Labor and the State in which the Work is being performed.

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**9.2. Confined Space Entry**

- A. Trade Contractor shall employ a confined space entry procedure when Contractor's employees are required to enter a confined area or space.
- B. Confined space entry procedures shall conform to OSHA and any State requirements.

**9.3. Excavation**

- A. A competent person trained in soil classification and the recognition of trenching and excavation hazards must be on the project site when excavating or trenching is to be done.
- B. Trenches and excavations 5'-0" or more in depth and shall be shored or walls cut back to protect persons from cave-in. Trenches and excavations less than 5'-0" with unstable walls shall be shored or cut back to protect persons from cave-in.
- C. Trenches and excavations shall be properly barricaded to prevent persons from falling into them.

**9.4. Fall Protection**

- A. A fall protection system shall be utilized when an adjacent surface is six-feet (6'-0") or more below foot level.
  - 1. Ladders
    - a. Fall protection on ladders is not required providing that the persons body remains within the vertical side rails.
  - 2. Personal fall arrest systems
    - a. Shall be properly worn and actively used by all workers when an adjacent surface is six feet (6'-0") or more below the foot level of the person unless other adequate fall protection such as guardrails are in place.
    - b. All components (anchorage points, lanyards, clips etc.) of a fall arrest system shall be of a type recommended for the work being performed and the conditions to be encountered;
    - c. The entire system shall be as approved by the system manufacturer and all local and federal health and safety requirements.
  - 3. Wire rope guard rails;
    - a. Wire rope guard rail systems providing fall protection shall incorporate loop type connections with a minimum of two (2) wire rope clamps. Turnbuckles shall be installed at each side or at more frequent intervals to maintain required tautness of the wire rope.
    - b. Wire rope horizontal lifelines shall be designed by a registered professional engineer and installed and maintained by a competent

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person. Wire rope life lines shall be designed to meet, at a minimum, the requirements of OSHA.

4. Flat roofs and decks
  - a. A warning barrier meeting, at a minimum, the requirements of OSHA may be used 15 feet from the fall hazard. Warning tape or other such means is not allowed, persons between the warning barrier and fall hazard shall utilize a positive means of fall protection.
5. Scaffolding
  - a. Persons erecting, using and dismantling scaffolds shall be trained in the hazards and safe procedures to be followed to eliminate exposure to those hazards and shall utilize fall protection when six feet (6'-0) or more above an adjacent surface.
  - b. Trade Contractor's designated Competent Person shall inspect all scaffolds prior to each work shift.
  - c. All scaffolds shall bear a tag, signed and dated by the contractor's Competent Person, denoting that the scaffold has been inspected and is safe to use prior to inspected and is safe to use prior to an employee utilizing the scaffold on that work shift.

**9.5. Fire Protection and Prevention Plan**

- A. Purpose
  1. The following plan has been developed in accordance with MIOSHA Fire Protection and Prevention Standard Part 18.
    - a. This plan exists to:
      - i. Prevent inception of fire
      - ii. Prevent loss of life and personal injury
      - iii. Protect property from damage
      - iv. Provide uninterrupted operations
- B. Trade Contractor shall be responsible for fire prevention associated with its work and operational areas 24 hours per day 7 days per week for the duration of the contract.
- C. Major workplace fire hazard control procedures to them
  1. Prior to the start of the construction and as construction progresses, Trade Contractors shall identify hazards and make on-site personnel aware.
  2. Maintenance of equipment and systems to prevent or control fires



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- a. The Clark Construction Company Project Superintendent will inspect fire extinguishers at least monthly.
- D. Employee training
- 1. Trade Contractors shall be responsible to train all of its personnel on-site on the general principles of fire extinguishers use and the hazards involved with the various stages of firefighting.
  - 2. All personnel on site will be responsible to review the Fire Protection and Prevention Plan and be familiar with its contents.
- E. Hot work procedures
- 1. Hot work procedures shall be followed when the possibility of a source of ignition exists. This includes open flames, spark-producing tools, hot surfaces (above 450 degrees F), and static discharging items.
  - 2. The following minimum hot work procedures shall be followed when directed by Clark Construction Company. In the event that the Trade Contractor or project specific requirements are more stringent the most stringent shall be employed after review with Clark Construction Company.
    - a. Ensure that a Hot Work Permit form is completed. A Hot Work Permit is good for one working shift only.
    - b. Hot work permit shall be posted at the jobsite with a copy in the Clark Construction Company Superintendent field office.
    - c. Hot work is not permitted where a flammable liquid is present in an open tank.
    - d. Obtain any other appropriate permits.
    - e. At the site of the work the following minimum action is required:
      - i. Clean up of combustibles such as paper, oil and grease.
      - ii. Cover immovable combustibles such as wooden steps with flame retardant tarpaulins.
      - iii. Place fire-extinguishing equipment at stand-by readiness.
      - iv. Have a fire watch person at stand-by readiness.
      - v. Perform explosive atmosphere testing.
      - vi. Provide necessary welding screens.
      - vii. Determine if wind may present a potential hazard.
      - viii. Cover sewers and drains.

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- ix. Protect lower levels.
- x. Provide adequate ventilation.
- xi. Assure equipment is purged, flushed, and/or filled with water as required.
- xii. Post and rope off areas.
- xiii. Wear required safety clothing and devices including respiratory equipment.
- xiv. Following completion of the hot work:
  - 1. Cleanup area
  - 2. Replace extinguishers
  - 3. Provide fire watch for one half hour
  - 4. Return copy of Hot Work Permit form to Clark Construction Company Superintendent.
- f. Construction related fire hazards:
  - i. Rubbish and trash accumulation
    - 1. Trash containers shall be provided for proper disposal of debris; and all trash containers shall be emptied or removed from the building at the end of each shift.
    - 2. Trash dumpsters shall be located a sufficient distance from the building.
    - 3. Care must be taken not to mix hot items (cigarettes, etc.) in the trash containers.
    - 4. Do not block or stack material against exits, fire extinguishers or electrical switches or panels.
  - ii. Cutting and welding
    - 1. Store acetylene and oxygen cylinders in safe locations, protected from high temperatures and separated from each other by a distance of 20 feet or a five foot, one hour fire-rated flame barrier.
    - 2. All cylinder valves shall be shut off and capped when not in use.
    - 3. Remove all combustibles from the area or be sure they are safely covered prior to starting hot work.

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TRADE CONTRACTOR HEALTH AND SAFETY PLAN

4. Fire watchman shall be posted with a fire extinguisher during the work period and for at least 30 minutes after completion when the possibility of sparks or slag starting a fire exists.
5. Fire resilient enclosures or fire blankets shall be utilized where possible.
6. Use "Hot Work" permit procedure if work needs to be done in an area where combustibles and flammables are present or otherwise required by Clark Construction Company.

iii. Fireproofing

1. When fireproofing is specified, it should be applied as soon as possible to afford fire protection to beams and columns in the event of a fire.

iv. Flammable/combustible liquids

1. Small quantities can be safely handled in approved, metal safety containers (not plastic), and should be kept in isolated locations.
2. No Smoking in areas of flammable or combustible liquids in use or stored.
3. Discharge devices requiring the container to be pressurized are prohibited.
4. Pumping devices or faucets shall be well maintained.
5. Only Underwriter's Lab (UL), Factory Mutual (FM) listed equipment shall be used.
6. Bulk containers used to dispense flammable liquids shall be kept outside at least ten feet from any building or inside a building used exclusively for the storage of flammable liquids and located at least ten feet from any other building.
7. Tanks and containers used for the storage of flammable liquids above ground shall be labeled (placarded), and "No Smoking" signs conspicuously placed.
8. Tanks shall be grounded during dispensing operations.
9. Area near storage tanks shall be graded away from building and diked.
10. Do not use flammable materials near electrical panels, switches, fork trucks or other combustion engines

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

11. Use Hot Work Permit procedures.
  12. When combustible materials are present, a water supply shall be available.
- v. Temporary heaters
1. Constant supervision is required.
  2. Only Underwriters Lab (UL) or Factory Mutual (FM) listed equipment shall be used.
  3. Area shall be cleared of all combustible material.
  4. Adequate ventilation shall be maintained.
  5. A fire extinguisher shall be readily available.
  6. Care shall be taken not to block means of egress.
  7. All spare cylinders shall be stored outside the building.
  8. Hoses supplying fuel to heaters shall be secured off of the floor and out of harm's way.
  9. Hoses shall be properly supported by materials which will not cause damage to the hose (a wire hanging wire is not allowed).
- vi. Internal Combustion Engines
1. Care shall be taken to avoid exhaust discharge near or in contact with combustible material and flammable liquids.
  2. Engines shall be shut down and allowed to cool before refueling to prevent flash fires.
  3. A fire extinguisher shall be kept in close proximity to the unit.
- vii. Concrete Forms
1. Non-combustible forms should be used whenever possible.
  2. Concrete shall be poured as quickly as possible after combustible forms have been constructed, and the forms removed as soon as possible after the concrete has set.
  3. During the time combustible forms are in place, storage and construction operations on that floor should be held to a minimum and ignition sources should be eliminated.

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SECTION 013529  
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viii. Temporary Enclosures of Buildings

1. Only flame-resistant tarpaulins or material of similar fire retardant characteristics shall be used.
2. If plastic is used, it shall be the type that does not readily ignite and that exhibits slow burning characteristics.
3. Temporary enclosure material shall be securely fastened or guarded to prevent contact with heaters or other sources of ignition.

ix. Tar Kettles

1. The use of tar kettles shall be continually supervised.
2. Tar kettles are permitted only outdoors away from combustibles or on a non-combustible floor or roof in the building.
3. Metal covers shall be provided to smother potential fires.
4. A fire extinguisher shall be kept in close proximity to the tar kettle. Should a fire occur, do not use water.
5. Roofing mops shall never be left indoors or near ignition sources or combustible materials. Note: roofing mops have been known to spontaneously ignite.

x. Electrical fires

1. Proper extinguishers must be used for electrical fires.
2. Extreme care must be used when dealing with energized circuits during fires.
3. Toxic fumes could be given off from certain electrical insulations.
4. Fire damage to wiring may extend beyond main involvement and proper investigation is required to isolate all damaged wiring.
5. Before re-energizing circuits, proper testing should be performed to assure that all damaged wiring has been eliminated.
6. Preventive maintenance of electrical systems will significantly reduce the amount of electrical fires.

xi. Housekeeping

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

1. Work and storage areas shall be kept clean, orderly and free of combustible materials.
2. Combustible liquids shall be stored away from arc producing devices.

**9.6. Electrical Safety**

**A. Temporary lighting**

1. Temporary lighting may not rest on any metal unless properly insulated.
2. Proper illumination levels shall be maintained.
3. Temporary lights shall be removed after permanent lighting is installed and the area is turned over.

**B. Temporary power**

1. GFCI circuits shall be supplied and regularly tested.
2. Temporary power wiring shall be supported as per code requirements.
3. Proper height restrictions shall be adhered to regarding temporary wiring installations.

**C. Tools**

1. All tools requiring grounds shall have grounded plugs. Double insulated tools do not need grounded plugs.
2. Damaged tools and ladders are shall be repaired or replaced.
3. All electrical power tools shall be tested for electrical safety prior to use.

**9.7. Hazard Communication**

**A.** Each Trade Contractor shall implement a Hazard Communication Program in accordance with federal, state and local and other applicable requirements.

**B.** Each Trade Contractor utilizing hazardous chemicals on the project site shall:

1. maintain project specific Safety Data Sheets (SDS) on the project site available to its employees for all hazardous chemicals and post the location of (SDS), as well as the contact person and telephone number, of the person responsible for managing this file;
2. provide employees of other employer(s) on the project site access to (SDS) for each hazardous chemical their employees may be exposed to;

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

3. inform other employer(s) of any precautionary measures to be taken to protect employees during the workplace's normal operating conditions and in foreseeable emergencies;
4. inform the other employer(s) of the container labeling system used in the workplace; and
5. submit to Clark Construction Company a substance inventory list and (SDS) for hazardous chemicals prior to bringing such chemicals to the project site and cooperate in maintaining a current (SDS) record held by Clark Construction Company on the project site.
6. Trade Contractors shall train employees in chemical hazards and controls for hazardous chemicals used. Training shall include:
  - a. symptoms of exposure;
  - b. exposure prevention including control procedures, work practices and personal protective equipment;
  - c. exposure reaction procedures;
  - d. hazard label and (SDS) understanding; and
  - e. proper disposal of hazardous chemicals.
7. Label all hazardous chemical containers. Labels shall include the following minimum information:
  - a. container contents;
  - b. hazard warning(s); and
  - c. name and address of manufacturer.
8. Notify Clark Construction Company and other Trade Contractor in the work area when hazardous chemicals will be in use and potential hazards which may be encountered.

**9.8. Lockout/Tagout**

- A. No one shall be permitted to work on and energized circuit. Trade Contractor shall employ procedures to ensure that no one will be exposed to hazards as a result of an energized circuit.
- B. Trade Contractor shall adhere to the most stringent of the following lockout/tagout procedures as required:
  1. trade contractors own requirements;
  2. owner requirements;

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SECTION 013529  
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

3. Clark Construction Company requirements; or other project specific requirements.

**9.9. Motor Vehicles and Equipment**

- A. All equipment shall be inspected daily before each use by the operator.
- B. Defective equipment shall be removed from service immediately.
- C. All operators shall be properly licensed and certified. Copies of certifications shall be maintained on site and shall be made available to Clark Construction Company upon request.

**9.10. Rigging**

- A. Lifting and Rigging Planning
  1. All loads shall be rigged by a qualified rigger.
  2. Materials being hoisted shall be rigged to prevent unintentional displacement.
  3. All hoisting operations shall be pre-planned to ensure that all applicable local and federal health and safety agency requirements are met.
  4. Routes for suspended loads shall be preplanned to ensure that no employee is required to work directly below a suspended load, except for employees as allowed by local and federal health and safety agencies (i.e., structural steel connector making initial connection).
  5. Tag lines shall be used on all loads.
- B. Rigging Equipment
  1. Rigging equipment for material handling shall be inspected at the time of installation, before each job, and at the beginning of each shift if in use, by an employee qualified to perform this inspection.
  2. Defective rigging equipment shall be removed from service.
  3. Hooks with self-closing safety latches or their equivalent shall be used to prevent components from slipping out of the hook.

**10. NON-CONFORMANCE**

- 10.1. Safety violations shall be promptly corrected by the Trade Contractor.
- 10.2. A "Notice to Comply" (NTC) may be issued by the Construction Manager for follow-up and response by the Trade Contractor (Refer to "Non-Conformance Procedure Section 014517 in front end documents)

END OF SECTION



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SECTION 013543  
ENVIRONMENTAL PROCEDURES

**1. PROJECT SITE REQUIREMENTS**

- 1.1. Clark Construction Company is committed to constructing and delivering to the client a project completed in an environmentally conscious manner from Design/Bid to Turnover.
- 1.2. Clark Construction Company's Environmental Policy is available for review upon request. Adherence to this policy shall be required.
- 1.3. Trade Contractors shall cooperate with the Construction Manager in evaluating Significant Environmental Aspects of the Work which it has control over and plan and implement such action as required to prevent significant impacts on the environment.
- 1.4. Trade Contractors shall take all necessary action and comply with applicable federal, state, county and municipal laws to prevent pollution of rivers, streams, waterways, lakes, soils and air.
- 1.5. Material, equipment, supplies or workmanship found not to comply with Clark Construction Company, and regulatory agency environmental requirements shall be promptly corrected by the Trade Contractor.
- 1.6. A "Notice to Comply" (NTC) may be issued by the Construction Manager for follow up action and response by the Trade Contractor. (Refer to Section 01410 for Non-Conformance Procedures).

**2. SOIL EROSION AND SEDIMENTATION CONTROL**

- 2.1. Trade Contractor shall be responsible to maintain all soil erosion and sedimentation control within the project limits in accordance with Public Act 347, 1972 as amended and as required by the Contract Documents. As a minimum, Trade Contractor shall keep a log of weekly inspections of the soil erosion and sedimentation control measures.
- 2.2. Trade Contractor shall conduct all excavation, embankment, grading and clean-up operations in a manner such that silty soil materials and waterborne objects are not discharged into any storm sewer, drainage ditch, river, lake or underground utility system. In addition, soil shall be managed so that it does not become airborne.
- 2.3. Soil erosion and sedimentation extending beyond the project will not be permitted. This includes soil washing across both turf and paved areas and soil washing into underground utility systems.
- 2.4. All violations of this requirement shall be corrected within 12 hours of notification by the Project Representative to eliminate reoccurrence.
- 2.5. Maintain all erosion control measures in good working order at all times to provide for maximum efficiency of the control provision. Trade Contractor shall keep a log of weekly inspections of the soil erosion and sedimentation control measures. All control measures shall be re-inspected after any significant rain fall.

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SECTION 013543  
ENVIRONMENTAL PROCEDURES

**3. ON-SITE FUEL/OIL STORAGE AND DELIVERY**

- 3.1. On-site fuel storage tanks are not allowed on this project.

**4. DUST CONTROL**

- 4.1. Dust control shall be provided by each Trade Contractor as required to prevent nuisance and hazard.

**5. WATER CONTROL**

- 5.1. Maintain excavations free of water. Provide, operate and maintain pumping equipment.

**6. CATCH BASIN FILTERS**

- 6.1. Water from trenches and other excavations shall not be pumped directly into catch basins (or manholes being temporarily used as catch basins) without first being properly filtered through the approved sediment filter system.
- 6.2. All manholes and catch basins within the project site, and all such structures offsite where sediment is likely to flow from the construction site or be carried by construction traffic, shall be securely covered with the approved sediment filter system.
- 6.3. Filter system shall be maintained clean and shall be periodically replaced by the Trade Contractor as required to maintain adequate water flow.
- 6.4. Install 36" high filter fence around structures that have not been paved.

**7. CONSTRUCTION INDOOR AIR QUALITY**

- 7.1. No smoking shall be allowed on school property at any time.

END OF SECTION

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SECTION 014516  
FIELD QUALITY CONTROL PROCEDURES

**1. GENERAL**

- 1.1. Trade Contractor shall provide premium quality workmanship and service of all Work under its Contract.

**2. QUALITY ASSURANCE**

- 2.1. Trade Contractor shall be responsible to implement a quality control program relative to its suppliers, manufacturers, products, services and workmanship, to assure Work of specified quality.
- 2.2. Comply fully with manufacturer's requirements. Conflicts with manufacturer's requirements and the Contract Documents shall be brought to the attention of the Construction Manager for review and direction by the Architect prior to proceeding with the Work.
- 2.3. Standards of quality required in the Contract Documents shall be considered as minimum standard. Trade Contractor shall meet higher standards of quality as required by authorities having jurisdiction over the project or other entities as applicable.
- 2.4. Conflicts in the Contract Documents shall be brought to the attention of the Construction Manager for clarification and direction prior to proceeding with the Work.
- 2.5. All Work shall be performed by qualified crafts persons to produce workmanship of specified quality.

**3. REFERENCES**

- 3.1. Conform to reference standard current as of date of Contract Documents.

**4. MATERIAL MOCK-UP**

- 4.1. Construct mock-ups at the site for review and approval as required in the Contract Documents.
- 4.2. Quality of workmanship shall be equal to or better than the quality of workmanship of the approved mock-up.
- 4.3. Trade Contractor shall remove mock-ups from the project site upon completion of the Work.

**5. REQUESTS FOR INFORMATION**

- 5.1. Clarification of the Contract Documents shall be requested in the form of Request for Information (RFI) utilizing the Request for Information Form module in the Project specific Website (Connect) (Refer to "Certificates and Other Forms" section).

**6. INSPECTION AND TESTING LABORATORY SERVICES**

- 6.1. Cooperate with independent material inspection and testing firm employed by others to accomplish all inspection and testing required to assure the quality of materials and workmanship.

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SECTION 014516  
FIELD QUALITY CONTROL PROCEDURES

- 6.2. Costs for any re-testing required as a result of non-conforming or apparent non-conforming Work will be charged to the Trade Contractor.

**7. MANUFACTURER'S FIELD SERVICES AND REPORTS**

- 7.1. When specified in individual Specification sections, Trade Contractor shall require material or product suppliers or manufacturers to provide qualified representatives to observe site conditions and installation procedures as specified or as required for warranties or other requirements.
- 7.2. Report observations and direction made by representatives that are supplemental or contrary to manufacturer's written instructions, Contract Documents or other requirements.

**8. REGULATORY REQUIREMENTS**

- 8.1. Standards and regulations referred to throughout the Contract Documents establish the minimum requirements of the Work. Where the Contract Document requirements exceed the applicable code, the Contract Documents drawings shall be met. Unless specifically noted, the current edition of all applicable regulatory codes shall be met.

**9. TOLERANCES**

- 9.1. Comply with manufacturer's quality tolerances. Manufacturer's tolerances which conflict with Contract Documents shall be brought to the attention of the Construction Manager for clarification and direction prior to proceeding with the Work.

**10. NON-CONFORMANCE**

- 10.1. Material, equipment, supplies or workmanship found not to comply to the Contract requirements shall be promptly corrected by the Trade Contractor.
- 10.2. A "Notice to Comply" (NTC) may be issued by the Construction Manager for follow up action and response by the Trade Contractor. (Refer to "Non-Conformance Procedure" section).

END OF SECTION

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SECTION 014517  
NON-CONFORMANCE PROCEDURE

**1. GENERAL**

- 1.1. Trade Contractor performance found not to comply with requirements relative to safety, quality and environmental issues, shall be promptly corrected by the Trade Contractor.
- 1.2. In the event of non-conforming performance, a Notice to Comply (NTC) may be issued by the Construction Manager for follow-up, action and response by the Trade Contractor. (Refer to "Certificates and Other Forms" section).

**2. NOTICE TO COMPLY PROCEDURES**

- 2.1. Construction Manager issues Notice to Comply (NTC).
- 2.2. Trade Contractor, jointly with the Construction Manager, determine the cause for non-conformity. Cause for non-conformity is recorded on the Notice to Comply (NTC).
- 2.3. Trade Contractor, jointly with the Construction Manager; propose corrective action to ensure non-conformity does not recur on project. Corrective action is recorded on the Notice to Comply (NTC).
- 2.4. Construction Manager reviews proposed corrective action and approves if acceptable. Approval of proposed corrective action may require review and acceptance by the Owner, Architect/Engineer or other entity as deemed appropriate by the Construction Manager. Approval is documented on the Notice to Comply (NTC).
- 2.5. Upon approval of proposed corrective action, the Trade Contractor implements approved corrective action. The Trade Contractor shall document corrective action taken and date completed on the Notice to Comply (NTC) and return form to the Construction Manager.

END OF SECTION

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SECTION 015000  
TEMPORARY FACILITIES AND CONTROLS

**1. TEMPORARY UTILITIES**

**1.1. TEMPORARY TELEPHONES**

- A. Temporary telephones shall be arranged and paid for by each individual Trade Contractor per their requirements.

**1.2. TEMPORARY DATA CONNECTIONS**

- A. Data connections if required by Trade contractor shall be arranged for and paid for by each individual Trade Contractor per their requirements.

**1.3. TEMPORARY WATER**

- A. Temporary water will be available from an on-site fire hydrant upon completion of underground utilities. Each Trade Contractor shall transport the water to their area of Work as required.

**1.4. TEMPORARY TOILETS**

- A. The Construction Manager will provide temporary toilets.

**1.5. FIRE SAFETY**

- A. Each Trade Contractor shall provide a minimum of 20 pound U.L. rated multi-purpose (Type A, B, C) fire extinguishers for their own work area.

**1.6. TEMPORARY CONTROLS**

**A. CONSTRUCTION CLEANING**

**1. On-going Clean-up**

- a. Project clean-up and disposal of debris is the responsibility of each Trade Contractor for their own material and shall be performed on a daily basis.
- b. Fridays of each week are designated as total project clean-up day. Trade Contractors shall be responsible to provide a labor force to thoroughly clean all areas where it has performed Work or otherwise created a need for clean-up. Friday clean-up shall include broom clean condition.
- c. Trade Contractor shall furnish labor for clean-up of unidentifiable debris including broom clean as directed by the Construction Manager in proportion to its Workforce.
- d. Trade Contractor shall be responsible for disposal of debris and dumpster costs associated with its Work.
- e. In the event that the Trade Contractor fails to clean up and dispose of all debris promptly after written direction to comply, the Construction Manager will clean-up the debris and Trade Contractor shall be responsible for all associated costs.

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SECTION 015000  
TEMPORARY FACILITIES AND CONTROLS

2. **Work in Place Progress Cleaning**

- a. Each Trade Contractor shall be responsible for cleaning of all material and equipment installed upon completion of installation of same.
- b. Work in place progress cleaning by each Trade Contractor shall include but not limited to the following:
  - i. Remove labels which are not required to be permanent.
  - ii. Clean transparent materials, including mirrors and window/door glass to a polished condition.
  - iii. All interior and exterior building material and equipment finished surfaces and components shall be cleaned to be free of dirt, dust, oils, film, and other foreign material.
  - iv. Clean debris and dust from limited-access spaces including roofs, plenums, ducts, shafts, trenches, equipment vaults, manholes, attics and similar spaces.
  - v. Each Trade Contractor, after completing its Work in any space, shall thoroughly clean any and all debris, dirt and dust caused by its Work or presence in a space. Such clean-up shall include but not be limited to:
    - 1. Vacuum or washing of floor, wall, ceiling and other surfaces.
    - 2. Restoring interior and exterior areas to condition that existed prior to occupying the space or commencement of the Work.

3. **Debris disposal**

- a. All debris shall be legally disposed of off-site. Salvage opportunities, including debris sorting, to maximize recycling efforts is required and will need to be reported to Clark Construction Company on a monthly basis, if dumpsters are not provided by Clark Construction Company. Percentage of waste diverted from landfills must also be reported.
- b. Debris shall not be buried, covered up or left in walls or above ceilings.
- c. Burning of debris will not be permitted on the project site.
- d. Trade Contractor shall be responsible for disposal of debris and dumpster costs associated with its Work.

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SECTION 015000  
TEMPORARY FACILITIES AND CONTROLS

4. **Street Cleaning**

- a. Trade Contractors shall be responsible for keeping all paved surfaces and public streets in the vicinity of the project clean of dirt and other debris that is a direct result of his operations.
- b. Cleaning shall consist of cleaning the streets with a pick-up type sweeper in such a manner that the pavement and gutters are maintained broom clean for the duration of the Contract.
- c. In the event that the Trade Contractor fails after written direction to promptly comply with street cleaning requirements, the Construction Manager shall perform the Work and charge the Trade Contractor all associated costs.

1.7. **MATERIAL AND EQUIPMENT HANDLING**

- A. Material and equipment shall be handled and stored utilizing means and methods to avoid damage, soiling, exposure to adverse weather, etc.
- B. Store weather sensitive products in weather-tight enclosures; maintain within humidity ranges required by manufacturer.
- C. Products stored on-site shall be supported as not to be in contact with ground and to avoid soiling.
- D. In the event that products become soiled, exposed to adverse weather or damaged, the Trade Contractor shall clean, repair or replace if necessary the product to achieve new condition acceptable to the Owner and Architect.
- E. Coordinate material and equipment deliveries to meet requirements of the construction schedule.
- F. Coordinate all delivery dates and storage spaces with the Construction Manager.
- G. Trade Contractor shall be responsible for receipt, unloading and handling of products under its Contract. The Construction Manager or others will not receive deliveries for Trade Contractors unless noted otherwise in the Documents.

1.8. **PROTECTION OF INSTALLED WORK**

- A. Protect installed Work and provide special protection where specified in Contract Documents.
- B. Trade Contractors required to Work on roof surfaces shall be responsible to take all precautions necessary to avoid puncture to roofing materials and shall place not less than the equivalent of ½ inch plywood to protect Work surface.



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SECTION 015000  
TEMPORARY FACILITIES AND CONTROLS

1.9. **SECURITY**

- A. Trade Contractors shall provide all means of security and facilities as necessary to protect tools and equipment from theft or vandalism. Trade Contractor's shall be responsible for insurance and cost of replacement of all tools and equipment.

1.10. **OFFICE/STORAGE FACILITIES**

- A. Trade Contractor shall not place storage and/or office facilities on-site without prior approval of the Construction Manager.
- B. Storage and office facilities shall be in good condition and appearance as determined by Clark Construction Company. Clark Construction Company reserves the right to demand removal of facilities that do not meet this requirement.
- C. Field offices and storage facilities shall remain portable and are subject to relocation.
- D. Cost of set-up and any relocation of field offices and storage facilities shall be the responsibility of the Trade Contractor.
- E. Electric heat or air-conditioning will not be allowed for field offices or storage facilities unless the Trade Contractor arranges for its own metered electrical service.

1.11. **REMOVAL OF UTILITIES, FACILITIES AND CONTROLS**

- A. Remove all temporary above grade or buried utilities, equipment, facilities and materials when directed by the Construction Manager.
- B. Clean and repair damage caused by installation or use of temporary Work.

END OF SECTION

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SECTION 017123  
FIELD ENGINEERING

**1. GENERAL**

- 1.1. The Owner will employ the services of a Civil Engineer or registered land surveyor to establish benchmarks, control points, and building corners. Trade Contractor shall be responsible for all other engineering and layout required for performance of its Work.

**2. REQUIREMENTS**

- 2.1. Confirm accuracy of information indicated on the drawings with property survey and existing benchmarks before commencing layout of the Work. Locate and protect existing benchmarks and control points. Preserve permanent reference points during construction.
- 2.2. Discrepancies between the Contract Drawings and existing conditions shall be brought to the attention of the Construction Manager prior to layout of the Work.
- 2.3. Confirm engineering and layout of previous Trade Work. Do not rely on Work or layout of other Trade Contractors. Proceeding with Work adjacent to or in concert with the Work of other trades shall indicate acceptance of responsibility for accuracy of layout of previous Trade Contractor Work.
- 2.4. Engage the services of a registered land surveyor for any layout associated with the performance of site related Work.
- 2.5. Establish and maintain a minimum of two permanent benchmarks on the site, referenced to data established by survey control points.
- 2.6. Prior to layout and construction, verify location and invert elevation at points of connection of all utilities including sanitary sewer, storm sewer, and water service piping.
- 2.7. Working from lines and levels established by the property survey, establish benchmarks and markers to set lines and levels at each story of construction and elsewhere as needed to properly locate each element of the Project. Calculate and measure required dimensions within indicated or recognized tolerances. Do not scale drawings to determine dimensions.
- 2.8. Confirm all major elements for line, level and plumb as Work progresses.
- 2.9. Record benchmark locations, with horizontal and vertical data, on Project Record Documents.
- 2.10. Do not change or relocate benchmarks or control points without prior written approval. Promptly report damaged, missing or disturbed control points.
- 2.11. Promptly replace disturbed or destroyed control points. Replace control points in exact original location.

**3. EXISTING CONDITIONS**

- 3.1. Location of underground utilities, such as sewers, electrical power, water piping, conduits, structures, etc., on the drawings is as accurate as can be determined from available information. Accuracy or completeness of this information is not guaranteed. Exact locations and elevations shall be verified by the Trade Contractor prior to starting Work.

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SECTION 017123  
FIELD ENGINEERING

- 3.2. Exercise extreme care when excavating at or near the general location of underground utilities.
- 3.3. Notify Miss Dig or other utility location services as required by the Contract Documents, other authorities or quality construction practice, a minimum of three (3) working days prior to commencing site excavation or interruption of utility services.

END OF SECTION

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SECTION 017329  
CUTTING AND PATCHING

**1. GENERAL**

- 1.1. Trade Contractor shall be required to perform all cutting and patching as required for its Work and to accomplish the following:
- A. New construction into existing conditions.
  - B. Relocation of existing equipment or devices including patching areas where items were removed and any cutting and patching required at the new location.
  - C. Repair existing surfaces damaged as a result of incidental demolition Work. Repaired area shall match adjacent construction in all aspects.
  - D. Fit several parts properly.
  - E. Uncover Work to provide for installation of ill-timed Work.
  - F. Remove and replace defective Work.
  - G. Remove and replace Work not conforming to requirements of the Contract Documents.
  - H. Remove samples of installed Work as specified for testing.
  - I. Certain construction Work may be completed before the Work of this Bid category begins. Cutting and patching of such Work shall be included in the Work of this Bid Category.

**2. DEFINITIONS**

- 2.1. Cutting and patching includes cutting into existing construction to provide for the installation or performance of other Work and subsequent fitting and patching as required to restore surfaces to their original condition.
- 2.2. Cutting and patching performed during the manufacture of products or during the initial fabrication, erection, or installation processes is not considered to be cutting and patching under this definition. Drilling of holes to install fasteners and similar operations are not considered to be cutting and patching.
- 2.3. Selective demolition is recognized as related but separate categories of Work, which may or may not require cutting and patching as defined in this section.

**3. PERFORMANCE**

- 3.1. Before cutting, examine surfaces to be cut and patched and conditions under which the Work is to be performed. Take corrective action prior to proceeding with cutting that would result in an unsafe condition.
- 3.2. Notify the Construction Manager immediately of any materials encountered which are suspected to contain asbestos. Asbestos-containing material will be removed and disposed of by the Owner.

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SECTION 017329  
CUTTING AND PATCHING

- 3.3. Modification of the Work of other Trade Contractors or existing conditions shall not be performed without the consent of the Construction Manager.
- 3.4. Protect other Work during cutting and patching to prevent damage. Provide protection from adverse weather conditions for that area of the project that may be exposed during cutting and patching operations.
- 3.5. Take precautions to avoid cutting existing pipe, conduit, duct and other items to remain in service either temporarily or permanently.
- 3.6. Coordinate with other Trade Contractors installation of any sleeves and box outs for the performance of the Work. Include layout and installation of sleeves and box outs to be installed into the Work of other Trade Contractors.
- 3.7. Trade Contractor needing sleeves and box outs shall fill voids around sleeves and box outs with appropriate material to meet required ratings. Provide escutcheon plates where Work will be exposed.
- 3.8. Coordinate date and time of cutting and removal of Work to be uncovered for review and inspection by others.
- 3.9. Cutting and patching of existing materials shall be the responsibility of the Trade Contractor requiring the same.
- 3.10. Cutting and patching shall be performed by craftspersons skilled in working with the material being cut and patched.
- 3.11. Where cutting or patching is required of one Trade Contractor as a result of negligence of another Trade Contractor, cost shall be borne by the negligent Trade Contractor.
- 3.12. Comply with requirements of earth work specification sections where cutting and patching require excavation and backfilling.
- 3.13. All patching shall be done in a neat workmanlike manner with materials to match existing. Fit work tight to adjacent elements. Maintain integrity of wall, ceiling and floor construction and completely seal voids.
- 3.14. Use hand or small power tools designed for sawing or grinding to the greatest extent possible.
- 3.15. Cut using methods that are least likely to damage Work to be retained or adjoining Work. Where necessary, review proposed procedures with the original installer and Construction Manager. Comply with methods that will achieve highest quality results.
- 3.16. Joint and seam tolerances shall meet the most stringent quality standards in accordance with the Contract Documents or industry standard tolerances for the material being patched.
- 3.17. Coordinate with other Trade Contractors for fitting the Work.
- 3.18. Cutting of existing Work shall be straight, true and of proper size.
- 3.19. Cutting and patching of concrete floors and decks shall be performed in a neat and workmanlike manner, using a coring machine. Openings over six inch diameter must be

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SECTION 017329  
CUTTING AND PATCHING

formed by the Trade Contractor requiring the opening. Each Trade Contractor shall pack and grout openings around sleeves or Work penetrating the floor or deck associated with its Work.

- 3.20. Submit shop drawings and obtain approval of the Architect/Engineer prior to cutting or altering structural members. Shop drawings shall clearly identify each cut or alteration. Include detailed cutting plan.
- 3.21. Provide temporary support to prevent failure of Work to be cut.
- 3.22. Hot work permits shall be obtained from the Construction Manager for any cutting or patching work which requires the use of flame of any kind.

**4. SUBMITTALS**

- 4.1. Where prior approval of cutting and patching is required, submit proposed procedures for Work to be performed and request approval to proceed. Include the following information, as applicable:
  - A. Describe the nature of the Work and detailed performance plan indicating why cutting and patching cannot be avoided. Describe anticipated results of the Work in terms of changes to existing Work, including structural, operational and visual changes as well as other significant elements.
  - B. List of products to be used and firms that will perform Work.
  - C. Dates Work is expected to be performed.
  - D. List utilities that will be disturbed or otherwise affected by Work, including those that will be relocated and those that will be out of service temporarily. Include duration utility service will be disrupted.
- 4.2. Approval by the Architect/Engineer to proceed with cutting and patching Work does not waive the Architect/Engineer's right to later require complete removal and replacement of Work found to be cut and patched in an unsatisfactory manner.
- 4.3. Submit cost estimate prior to cutting and patching to be performed and considered to be a change in scope of Work.
- 4.4. In the event conditions of Work or schedule require a change of materials or methods, submit request and recommendation. Include the following information:
  - A. Describe condition requiring change.
  - B. Recommendations for alternative materials or methods.
  - C. Submittals as required for substitutions.
  - D. Hot work permit if flame is used in any form to perform the Work.

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SECTION 017329  
CUTTING AND PATCHING

**5. MATERIALS**

- 5.1. Except as otherwise indicated, or as directed by the Architect/Engineer, use materials for cutting and patching that are identical to existing materials. In the event identical materials are not available, or cannot be used, materials that match existing adjacent surfaces to the fullest extent possible with regard to visual effect shall be used. Materials used for patching shall result in equal or better performance characteristics.

**6. CLEANING**

- 6.1. Thoroughly clean areas and spaces where Work is performed or spaces used as access to Work. Remove paint, mortar, oils, putty and items of similar nature completely. Thoroughly clean materials before painting or other finishing is applied.

END OF SECTION

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SECTION 017700  
CLOSEOUT PROCEDURES

**1. GENERAL**

- 1.1. Specific Project closeout requirements are the responsibility of the Trade Contractor. Coordinate all requirements with the Construction Manager.

**2. SUBMITTALS**

**2.1. Operating and Maintenance Data**

- A. Operating and Maintenance Manuals shall be submitted upon completion of 80% of the Work or earlier if required to meet other Contract requirements.
- B. Maintenance Data shall be provided in accordance with "Operation and Maintenance Data" section.
- C. Submit special tools and spare parts upon completion of 90% of the work in accordance with "Operation and Maintenance Data" section.

**2.2. Project Record Documents**

- A. Project Record Documents shall be submitted upon completion of the Work.
- B. Record Documents shall be provided in accordance with "Project Record Documents" section.
- C. Project Record Documents shall include:
  - 1. "As-built" Drawings.
  - 2. "As-built" Material List.
  - 3. Certificates of Inspection and approval
  - 4. Warranties and Guarantees.
  - 5. Asbestos Free Document (Sample provided by Architect)
  - 6. Smoke and Fire Spread Documentation.
  - 7. Other documentation as required.
- D. "As-built" drawings shall be submitted in electronic format on the project specific website, as required by Clark Construction Company and one (1) hard copy.

**3. FINAL APPLICATION FOR PAYMENT**

- 3.1. Final Application for Payment shall be submitted in accordance with the Contract Documents.



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SECTION 017700  
CLOSEOUT PROCEDURES

- 3.2. Final Application for Payment shall be submitted only after all Project Closeout submittals, procedures and processes have been completed.

**4. CERTIFICATE OF SUBSTANTIAL COMPLETION**

- 4.1. Submit Certificate of Substantial Completion on form included in "Certificates and Other Forms" section.
- 4.2. The date of Substantial Completion will be determined by the Architect.

**5. INSTRUCTION OF OWNER PERSONNEL**

- 5.1. Provide instruction to Owner personnel in accordance with "Operation and Maintenance Data" section.
- 5.2. Coordinate instruction of Owner personnel to occur as early as possible following material and equipment being placed in complete operation.
- 5.3. Provide additional instruction sessions as required to accomplish instruction of material and equipment under differing conditions (i.e., HVAC equipment under heating and cooling conditions).
- 5.4. Video record Owner training sessions and turnover to the owner for their use.
- 5.5. Provide a signed transmittal if the owner declines any and/or all training.

**6. WORK COMPLETION/PUNCH LIST**

**6.1. PROCEDURE**

- A. Trade Contractor shall develop a work completion list by area of the building as areas of Work are completed. Corrective Work shall be undertaken immediately upon development of the list.
- B. The Construction Manager will review and add additional items to the completion list as needed for completion by the Trade Contractor.
- C. Immediately upon completion of the Work the Trade Contractor shall review the Work and develop a detailed list of punch list and incomplete items of Work and within seven (7) days of completion of the Work, submit the list to the Construction Manager.
- D. Trade Contractor list shall include location of item, description and scheduled date of completion.
- E. Trade Contractor shall immediately upon development of the list begin corrective Work.
- F. Construction Manager will review the list along with all material and equipment installed by the Trade Contractor and add additional items to the list found to be of unacceptable quality or incomplete.

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SECTION 017700  
CLOSEOUT PROCEDURES

- G. Construction Manager will coordinate with Owner's representatives, Architect and Engineers to review the Work and add additional items as required.
- H. The complete list of defective or incomplete items which includes review by Owner, Architect and Engineers will be provided to the Trade Contractor for correction/completion of the Work.
- I. Trade Contractor shall be held responsible to correct/complete the Work within thirty (30) calendar days of transmittal of the list by the Construction Manager.
- J. Trade Contractor shall conduct a confirmation walk-through with Construction Manager after correction/completion of the list.
- K. Any punch list items not completed by the Trade Contractor after thirty (30) calendar days or shorter duration as required by the Contract following transmittal of the punch list by the Construction Manager will be completed by others. All costs including Construction Manager time, overhead and profit will be charged to the Trade Contractor.
- L. Final approval and acceptance of completed punch list and completed Work shall be by the Architect and Owner.

END OF SECTION

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SECTION 017823  
OPERATION AND MAINTENANCE DATA

**1. GENERAL**

- 1.1. Provide complete product data and related information appropriate for Owner's maintenance and operation of products furnished under the Contract, and provide operating and maintenance data as specified in the section and as referenced in other pertinent Specification sections.
- 1.2. Instruct Owner's personnel in the maintenance of products and in the operation of equipment and systems. If owner training is required video all sessions and turnover to the owner for their use.

**2. QUALITY ASSURANCE**

- 2.1. Preparation of data shall be done by personnel trained and experienced in maintenance and operation of the described products.

**3. OPERATING AND MAINTENANCE MANUALS**

- 3.1. Furnish to the Construction Manager an electronic copy uploaded to the Project Specific Website and one (1) complete manual as approved detailing the operation and maintenance of all operable systems and products furnished under the Contract.
- 3.2. Provide operation and maintenance manuals in the following format:
  - A. Binder type
    1. Commercial quality three-ring binders with durable and cleanable plastic covers
    2. Minimum ring size – one inch
    3. When multiple binders are used, correlate the data into related consistent groupings
    4. Binder cover
      - a. Identify each volume with title “OPERATING AND MAINTENANCE INSTRUCTIONS”, and the following information:
        - i. Title of project
        - ii. Identity of separate structure as applicable
        - iii. Identity of general subject matter covered in manual
      - b. Size – 8 ½” x 11”
      - c. Paper – 20 pound minimum, white, for typed pages
      - d. Text – Manufacturer's printed data, or neatly typewritten

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SECTION 017823  
OPERATION AND MAINTENANCE DATA

5. Drawings (included in manuals)
  - a. Provide reinforced, punched binder tab, bind in with text
  - b. Fold larger drawings to the size of the text pages
6. Table of Contents
  - a. By system, for each volume
  - b. List each major component as subheading to system
7. Organization
  - a. Group all components of each system into complete sections
  - b. Provide indexed divider for each system
  - c. Provide index tabs at each major component of each system using same identifications as Table of Contents
8. Content to be included in manuals shall be as follows:
  - a. Manuals shall be suitable for use in training of Owner's personnel
  - b. Each manual section shall include the following, as applicable:
    - i. Operating data
    - ii. Narrative operating instructions for total system, organized sequentially and tailored to project installation
    - iii. For architectural products, applied materials and finishes
      1. Manufacturer's data, giving full information on products:
        - a. Catalog number, size, composition
        - b. Color and texture designations
        - c. Information required for re-ordering special-manufactured products
      2. Maintenance data
        - a. Procedures
          - i. Recommended maintenance schedules
          - ii. Spare parts lists including manufacturer's catalog numbers

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SECTION 017823  
OPERATION AND MAINTENANCE DATA

- iii. Manufacturer's printed data
- iv. All applicable diagrams and system layouts
- v. Recommended cleaning products and methods.  
Include products or methods that are detrimental  
to the material.
- vi. Recommended schedule for cleaning and  
maintenance
- vii. Supplier and installer contact information

**4. POSTED OPERATING INSTRUCTIONS**

- 4.1. Where applicable, provide operating instructions for posting for each major piece of equipment and systems of equipment, to aid in the operation of the equipment at or near local control panels or major piece of equipment.
- 4.2. Provide posted operating instructions in the following format:
  - A. Name plate data and manufacturers standard instructions, permanently affixed to product by manufacturer.
  - B. Operating instructions and diagrams furnished by Trade Contractor shall conform to the following:
    - 1. Size – not larger than 24" x 36" or smaller than 8 ½" x 11".
    - 2. Mounting – provide clean rigid protective covering and fasteners to permanently mount instructions to substrates encountered.
    - 3. Groupings of instructions shall be of uniform size.
  - C. Content to be included shall be as follows:
    - 1. Layouts
      - a. Equipment
      - b. Electrical
      - c. Piping
      - d. Other as required
  - D. Instructions – simplified narrative
    - 1. Operation
    - 2. Cautions

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SECTION 017823  
OPERATION AND MAINTENANCE DATA

3. Supplementary information required to aid in the safe operation of the equipment

**5. WARRANTIES**

- 5.1. Furnish to the Construction Manager an electronic copy uploaded to the Project Specific website and one (1) warranty manuals separate from other project documentation. One (1) manual with original signature on warranties and two (2) copies.
- 5.2. Provide warranty manuals in the following format:
  - A. Binder type
    1. Commercial quality three-ring binders with durable and cleanable plastic covers
    2. Minimum ring size – one inch
    3. When multiple binders are used, correlate the data into related consistent groupings

**6. INSTRUCTION OF OWNER'S PERSONNEL**

- 6.1. Prior to final acceptance of the Work, and in accordance with specification sections, provide training encompassing all equipment and systems furnished under the Contract, for the Owner's designated operating and maintenance personnel. This training will be video recorded and turned over to the owner for their use. If Owner declines training provide a signed transmittal in lieu of the video recording.
- 6.2. Provide instruction documentation as follows:
  - A. Instruction schedule submittal shall include the following information
    1. Systems to be covered
    2. Total hours scheduled for each
    3. Percentage of classroom instruction versus field instruction
    4. Name of instructor and company represented
    5. Qualifications of instructor
    6. Operating and maintenance manuals, and posted operating instructions shall be the basis of instruction
- 6.3. The Trade Contractor shall maintain a training log with the following information
  - A. Date
  - B. System in which instruction was given

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SECTION 017823  
OPERATION AND MAINTENANCE DATA

- C. Name and signature of instructor
- D. Hours of instruction
- E. Names of Owner's personnel in attendance
- F. Log to be given to Construction Manager as part of the close-out documents at the completion of the training

6.4. Instruction shall include the following:

- A. Complete instruction in the safe operation, emergency procedures, and basic maintenance of equipment furnished under the Contract.
- B. Instruction in the care and maintenance of finish materials and products.
- C. Cautions on limitations of Owner's personnel service and conditions under which warranties may be voided.

6.5. Deferred Training

- A. Instruction and training in seasonal systems may be deferred until the appropriate season, provide warranties of such systems will be in effect at such times.

**7. SPECIAL TOOLS**

- 7.1. Deliver to the Construction Manager four (4) sets of any special tools and keys required for operation, adjustment, resetting or maintenance. Identify each item and package each set in a separate container identified as to function.

**8. ATTIC STOCK**

- 8.1. Deliver Owner stock materials as required by each specification section.
- 8.2. Properly label stock material relative to product information and location on the project.
- 8.3. Deliver stock material when directed by the Construction Manager.
- 8.4. Stock material deliveries shall be accompanied by a transmittal listing all materials provided as well as quantities and specification section to which materials apply.
- 8.5. Stock material deliveries shall be signed for by the Construction Manager.

END OF SECTION

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SECTION 017839  
PROJECT RECORD DOCUMENTS

**1. GENERAL**

- 1.1. Trade Contractor shall maintain at the jobsite, one (1) copy of Contract Drawings, Specifications, Addenda, approved shop drawings, Change Orders and other modifications to the Contract, and field test reports.

**2. RECORDING**

- 2.1. Label each document "PROJECT RECORD" in one inch high printed letters.
- 2.2. Keep record documents current; failure to maintain current documents may result in reduction of progress payments.
- 2.3. Provide updated set of "as-built" documents for review on a monthly basis as condition of payment.
- 2.4. Do not permanently conceal any Work until required information has been recorded.

**3. CONTRACT DRAWINGS**

- 3.1. Legibly mark to record "as-built" construction conditions which differ from Contract Documents. Include details as required and not noted on original Drawings.

**4. SUBMITTALS**

- 4.1. At completion of the Work, deliver record documents to the Construction Manager.
- 4.2. Accompany submittal with transmittal letter, in duplicate, containing:
- A. Date
  - B. Project title and number, Architect's name and project number
  - C. Trade Contractor's name and address
  - D. Title and number of each record document
  - E. Certification that each document as submitted is complete and accurate
  - F. Signature of Trade Contractor or authorized representative

**5. AS-BUILT LIST**

- 5.1. Furnish one (1) completed copy of an "as-built" materials list. This list shall indicate manufacturer, vendor or supplier and installer for each applicable item listed and any other item specified by trade name herein.

**6. CERTIFICATES OF INSPECTION**

- 6.1. Provide a copy of all Certificates of Inspection as required by applicable codes and/or the Contract documents.



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SECTION 017839  
PROJECT RECORD DOCUMENTS

**7. WARRANTY**

- 7.1. All Work and material on the Project shall be guaranteed for a **minimum period of twenty-four (24) months**, or longer as may be required by the Specifications, Owner's Contract and local ordinances or applicable codes. The guarantee period shall commence at the date of Substantial Completion as determined by the Owner, Architect and Construction Manager.
- 7.2. Trade Contractor shall be responsible for any and all consequential damages as a result of failure of its Work under warranty.
- 7.3. Guarantee form shall be same as form included in "Certificates and Other Forms" section or other as required by the Architect, Owner or Construction Manager.
- 7.4. Trade Contractor shall return to the Project approximately 23 months after the date of substantial completion for a warranty review meeting.

**8. OTHER**

- 8.1. Provide other close-out items as required by local ordinances and authorities having jurisdiction.

END OF SECTION