
SECTION 000101
PROJECT PROCUREMENT, CONTRACTING AND GENERAL REQUIREMENTS
Dearborn Public Schools
Bid Release No. 1
October 11, 2019

Dearborn Public Schools

Administrative Service Center Remodeling Project Manual & Bid Information

Bid Release No. 1

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October 13, 2019

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ADVERTISEMENT / INVITATION FOR BIDS

PROJECT: Dearborn Public Schools

BID RELEASE NO.: 1

DESCRIPTION: Administrative Service Center Remodeling

OWNER: Dearborn Public Schools
18700 Audette Street
Dearborn, MI 48124

ARCHITECT: TMP Architecture
1191 West Square Lake Road
Bloomfield, MI 48302

CONTACT FOR BIDDING: Matt Wielechowski
TELEPHONE: (517) 643-0185
EMAIL: mwielechowski@clarkcc.com

1. PRE-BID CONFERENCE

- 1.1. A pre-bid conference will be held at 3:00 PM, Wednesday, October 23, 2019 at Dearborn Public Schools Administrative Services Building, 18700 Audette, Dearborn, MI 48126.

2. BID PROPOSAL DUE DATE/LOCATION

- 2.1. Lump sum sealed proposals will be received at the office of,
- Dearborn Public Schools District Operations Building
10421 Haggerty
Dearborn, MI 48126
Attention: Michael Belcher, Director of Construction & contract Administration
- 2.2. Proposal must be delivered not later than 2:00PM, Thursday, October 31, 2019.
- 2.3. No oral, fax or emailed Bids shall be submitted.
- 2.4. 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
- 2.5. 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.
- 2.6. Dearborn Public 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.

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2.7. Bids will be opened publicly at 2:15PM, Thursday, October 31, 2019 at,

Dearborn Public Schools District Operations Building
10421 Haggerty
Dearborn, MI 48126

3. BID CATEGORIES

3.1. 06 – General Contractor

4. BID DOCUMENT AVAILABILITY/DEPOSIT

4.1. Bid Documents, drawings and specifications will be available at 12:00 PM, Friday, October 11, 2019 at the following location(s):

www.clarkccbids.com

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

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

5. BID PROPOSAL REQUIREMENTS

5.1. All questions during the bidding period shall be referred to Clark Construction Company via fax or email to:

CONTACT: Matt Wielechowski
EMAIL: mwielechowski@clarkcc.com

5.2. Bid security in the amount of 5% of the Bid, shall accompany the Bid.

END OF SECTION

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INSTRUCTIONS TO BIDDERS

1.0 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, the Advertisement/Invitation for Bids, the Project Manual (Specifications) and all Drawings issued for the purpose of preparing a Bid.
- 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 Bid Documents, including Drawings and Specifications, by additions, deletions, clarifications or corrections
- 1.6. **Bid:** a proposal prepared and submitted as required herein.
- 1.7. **General 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 General Contractor.
- 1.8. The **contract documents** consist of the agreement, the conditions of the contract (General, Supplementary General and Special Conditions), the Schedule Narrative, Description of the Work, the drawings, the specifications, appropriate performance and payment bonds, all addenda issued prior to execution of the contract, and all modifications issued after execution of the contract.

2. BIDDER'S REPRESENTATION

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

3. BIDDING PROCEDURES

- 3.1. 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.
- 3.2. Each Bidder shall ascertain prior to submitting a Bid that it has received all Addenda issued and shall acknowledge receipt on the Bid Proposal Form.
- 3.3. All Bids must be signed as follows:
 - A. Corporations: Signature of official shall be accompanied by a certified copy of the resolution of the board of directors authorizing the individual signing to bind the corporation.
 - B. Partnerships: Signature of one partner shall be accompanied by a certified copy of the power of attorney authorizing the individual signing to bind all partners. If a

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certified copy of the partnership's certificate submitted with the bid indicated that all partners have signed, no authorization is required.

- C. Bids submitted by joint ventures shall be signed by one of the joint ventures and shall be accompanied by a certified copy of the power of attorney authorizing the individual signing to bind all the joint ventures.
 - D. Individual signing on own behalf: No authorization is required.
 - E. Individual signing on behalf of another: Power of attorney or comparable evidence of authority shall accompany bid.
- 3.4. Bids shall be submitted in an opaque, sealed envelope. Facsimile Bids will not be accepted unless otherwise noted in the Bid Documents.
 - 3.5. 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.
 - 3.6. No responsibility shall attach to the Owner, or representatives of either, for premature opening of any Bid, which is not properly addressed, delivered and identified.
 - 3.7. 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.
 - 3.8. The Owner or Architect/Engineer, 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.
 - 3.9. 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.
 - 3.10. Voluntary alternates will be considered at the Architect and Owner's discretion.
 - 3.11. Bidder shall not modify, withdraw or cancel a Bid or any part thereof for ninety (90) days after the time designated for the Due Date 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 Due Date 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 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.

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- 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 General 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. General Contractor shall not scale Drawings to obtain dimensions.

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 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 Clark Construction Company 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.

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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.
 - 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. RESERVATION OF RIGHTS

- 7.1. Dearborn Public Schools reserves the right, in its sole and absolute discretion (for this provision and all other provisions contained in this RFB), to accept or reject, in whole or in part, any or all Bids with or without cause. Dearborn Public Schools further reserves the right to waive any irregularity or informality in this RFB process or any Bid, and the right to award the Contract to other than the low Bidder(s). Dearborn Public Schools reserves the right to request additional information from any or all Bidders. Dearborn Public Schools reserves the right to select one or more Bidders. In the event a Bidder's Bid is accepted by Dearborn Public Schools and Bidder asserts exceptions, special considerations or conditions after acceptance, Dearborn Public Schools, in its sole and absolute discretion, reserves the right to thereafter reject the Bid and award the Contract to another Bidder.

8. OWNER RIGHTS

- 8.1. The Bidder recognizes the right of the Owner to reject a Bid for no reason or 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 or Architect;

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- D. Known poor performance on prior contracts with parties other than the, Owner or Architect; or
 - E. Unsatisfactory financial condition.
- 8.2. 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.
- 8.3. The Owner reserves the right to request qualification information from any Bidder before issuing documents, receiving Bids or awarding a Contract. The Owner may, at its sole discretion, accept or reject Bidders as qualified. The right to waive any informalities in qualification materials is reserved by the Owner. The Bidder, in submitting its Bid, agrees to accept the decision of the Owner as final.
- 8.4. Right To Audit: Contractor's records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the Owner to extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by Contractor of any of its payees pursuant to execution of the contract. Such records subject to examination shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this contract. For the purpose of such audits, inspections, examinations and evaluations, the Owner shall have access to said records from the effective date of this contract, for the duration of the Work, and until two (2) years after the date of final payment by the Owner to Contractor pursuant to this contract.
- 8.5. To enable the Owner to evaluate the competency and financial responsibility of the Bidder, the Bidder shall, when requested by the Owner, furnish the following information:
- 1. A list of projects completed during the previous twelve (12) months, including the contract values and the names of all owners involved.
 - 2. A statement regarding any past, present, or pending litigation with an Owner. Such additional information may be required to satisfy the Owner that the Bidder is adequately prepared, in technical experience, or otherwise, to fulfill the contract.
- 8.6. The submitters shall provide full disclosure of all existing client relationships that currently or prospectively may give rise to conflicts of interest and disqualification as governed by the codes of rules of professional responsibility and conduct.
- 8.7. Bids are considered irregular and may be rejected for any of the following reasons unless otherwise provided by law:
- A. If bid proposal form furnished is not used, altered, or incomplete.
 - B. If there are unauthorized additions, qualifications, conditions, or irregularities of any kind which may make the bid incomplete, indefinite, or ambiguous as to its meaning.
 - C. If bidder adds any provisions reserving right to accept or reject any awards of contract.

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- D. If unit or lump sum prices or alternates contained in the bid schedule are obviously unbalanced either in excess or, or below, reasonable costs analysis values.
- E. If bidder fails to complete any portion of the Bid Proposal Form where information is requested such that the Bid Proposal Form cannot be properly evaluated.
- F. If bid security does not accompany bid proposal form.
- G. Failure of the bidder to inspect the proposed sited by appointment.
- H. Bidder's lack of responsibility as revealed by submitted information on either experience, or equipment statements.
- I. Bidder's lack of expertise as shown by past work and judged from the standpoint of workmanship and performance history.
- J. If any pertinent instructions to bidders is not fully complied with.

9. EQUAL OPPORTUNITY EMPLOYMENT POLICIES

- 9.1. 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.

10. BID SECURITY

- 10.1. Each bid must 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 Owner under the terms stated in the Bid Documents. Bid Bonds shall be issued by a bonding company meeting the requirements as described in Section 006113 Performance and Payment Bond. Bid security may also be in the form of certified check made out to Dearborn Public Schools.
- 10.2. The Owner shall have the right to retain the Bid security of Bidders under consideration until either:
- A. the Contract has been executed and bonds and insurance have been furnished, or
 - B. the specified time has elapsed so that Bids may be withdrawn, or
 - C. All Bids have been rejected.
- 10.3. The amount of the Bid security shall be forfeited to the Owner upon failure of the successful Bidder to enter into a Contract and provide all required Bonds and Insurance to the Owner within fifteen (15) days after acceptance of the Bid.

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11. PERFORMANCE AND LABOR AND MATERIAL PAYMENT BONDS

- 11.1. The Bidder shall, within 10 days after the acceptance of any Bid, provide a Labor and Material Payment and Performance Bond, each covering the full amount of the Contract sum as security for the faithful performance of all Work under the Contract and payment of all charges in connection therewith. (Refer to “Performance and Payment Bond” section). **Cost of said bonds shall be included in the Base bid.**

12. LATE BIDS

- 12.1. Each Bidder is responsible for submission of its Bid. Bids or Bid revisions received after the Due Date will not be acceptable or considered. Dearborn Public Schools is not liable for any delivery or postal delays.

13. RETURNED BIDS

- 13.1. All Bids received after the Due Date will be unopened and made available to the respective Bidder for pick-up, at their sole cost and expense for a period of two (2) weeks after the Due Date.

14. CONTRACT ASSIGNMENT OR SUB-CONTRACT

- 14.1. All Contract shall not be assigned, transferred, or sublet, in whole or in part, by the Bidder without the prior written consent of Dearborn Public Schools.

15. SUBCONTRACTORS

- 15.1. All workmen shall be thoroughly experienced in the particular class of Work in which they are employed. Nothing contained in the Contract shall create a contractual relationship between the School District and any third party, including any Subcontractor of the Bidder. The Bidder shall be responsible for the management of its Subcontractors in their performance of their work. When using Subcontractors, the Bidder shall be fully responsible to Dearborn Public Schools for the acts and omissions of its Subcontractors and of persons employed or directly employed by the Bidder as if the Subcontractors were employees of the Bidder.

16. HOURS OF WORK

- 16.1. Work shall be performed, primarily during 3:00 p.m. to 11:00 p.m., Monday through Friday. Any changes to the established schedule must have prior approval of the Owner and scheduled at the least disruptive time possible.

17. SAFETY

- 17.1. All work performed by the Contractor shall meet and/or exceed all federal, state and local regulations.
- 17.2. The Contractor shall be responsible for providing and for the placement of barricades, tarps, plastic, flag tape and other safety/traffic control equipment required to protect its employees, the public, surrounding areas, equipment and vehicles. The flow of vehicular

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traffic shall not be impeded at any time during this project. The safety of the Contractor's employees and the public is of prime concern to the Owner, and the Contractor must take all necessary steps to assure proper safety during the performance of the contract. Any bidders that have a history of safety problems or a high incidence of accidents will not be considered for award of a contract.

- 17.3. The Contractor shall keep the premises clean of all rubbish and debris generated by the Work involved and shall leave the premises neat and clean. All surplus material, rubbish, and debris shall be disposed of by the Contractor at the Contractors' expense. The Contractor shall provide a dumpster, if necessary. Location of the dumpster shall be pre-approved and coordinated with Owner ahead of time.
- 17.4. The work area shall be cleaned at the end of each workday. All waste, tools, equipment, etc., shall be removed or safely stored. The Owner is not responsible for theft or damage to the Contractor's property. All possible safety hazards to workers or the public shall be corrected immediately and left in a safe condition at the end of each workday. If there is a question in this area, the Owner shall be consulted.
- 17.5. The Owner does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the Owner.
- 17.6. Contractor shall perform all work so that no damage to the building or grounds results. Contractor shall repair any damage caused to the satisfaction of the Owner.
- 17.7. Contractor shall take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor shall repair and finish to match existing material as approved by the Owner at Contractors' expense.
- 17.8. The Contractor shall be responsible and liable for any and all damages caused by any action or inaction of an employee or subcontractor working for the Contractor.

END OF SECTION

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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 General 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 General 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 General 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. Delivery and storage of materials and equipment shall be the responsibility of each General Contractor (Refer to “Temporary Facilities and Controls” section).
- 2.4. All means and methods, labor, material, tools, construction equipment and machinery necessary, including cranes, hoisting equipment, scaffolding, shoring and bracing, to complete the Work.
- 2.5. The General Contractor shall obtain and pay for all permits and fees associated with its Work including but not limited to the Building Permit.
- 2.6. All inspections required by state and local jurisdictions must be scheduled and documented by the General Contractor.
- 2.7. Minimal benchmarks and control lines will be provided. General Contractor shall be responsible for all other engineering and layout required for the performance of its Work.

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- 2.8. Barricades, traffic maintenance and control as required. The school is occupied during construction, proper barricades and partitions from students and staff will be required.
- 2.9. Confine operations at the site to areas permitted by the Owner.
- 2.10. Protection and safekeeping of General Contractor's own materials and equipment stored on the premises.
- 2.11. Protect all existing structures, equipment, trees, landscaping, etc., to remain.
- 2.12. Dust control to prevent nuisance and hazard.
- 2.13. Cleaning of street of mud and debris (Refer to "Temporary Facilities and Controls" section).
- 2.14. 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).
- 2.15. Pumping water required to perform the Work.
- 2.16. Temporary utilities as needed to perform the Work (Refer to "Temporary Facilities and Controls" section for specific temporary utility information).
- 2.17. The building must be secured at the end of every day. All openings need to be secured and weathertight.
- 2.18. 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).
- 2.19. Use of tobacco products will not be allowed on the project site, smoking is against the law on school property.
- 2.20. Loud activities may need to be done before or after school operation if they become a nuisance, this includes but is not limited to demolition, tile removal, etc.
- 2.21. All shutdowns will need to be coordinated around school activities and likely have to be performed after school hours and activities.
- 2.22. This contractor is to provide temporary toilets and dumpsters. Coordinate locations of these items and parking with the Owner.
- 2.23. Final cleaning will be done by the Owner.
- 2.24. Weekly coordination meetings with the Owner and Architect will be required. An update on schedule will need to be provided.
- 2.25. All testing as required must be scheduled by the General Contractor. The testing agency will be employed by the Owner. All cost for testing will be paid for by the Owner.

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SCOPE OF WORK
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3. Dearborn Public Schools - Division of District Operations Contractor Code of Conduct

- 3.1. The purpose of the Dearborn Public Schools Organization and its employees is to provide a safe, positive learning environment for the students of the District. In providing that environment it is mandatory that all employees, visitors, and contractors follow certain levels of conduct, dress, and demeanor. This Code of Conduct outlines the expectations of the Dearborn Public Schools for persons both contemplating performing work and performing work for Dearborn Schools in the capacity of a contractor or sub-contractor. These rules will become part of the mandatory working conditions of the contract and failure to comply by the any contractor, subcontractor, management, employee, or contracted consultant may result in the cancellation of the contract.
- 3.2. In general, it is expected that everyone entering a Dearborn Public Schools facility, whether a school, support facility, or the surrounding grounds, must dress, act, and talk in a manner that is conducive to the education process of children while assuring their overall safety and security. The following rules have been established to assure that this is done:
- 3.3. School Days:
- A. Beginning 1 hour before the start of school to 1 hour after the school day every contractor employee that enters or leaves the building must sign in and out at either the school office or the building engineer's office as designated by the school administrator. This sign in sheet must record name, time in and out, the firm, and the signature of the individual.
 - B. All contractors shall be furnished by their company a badge or identification that is to be worn while in the building. Such identification shall clearly indicate the individual's name and the name of the firm they are working for.
 - C. Prior to the beginning of a job, the contractor shall furnish the Clark Construction Company with a list of individuals expected to be on the job, contact persons with phone numbers, and a schedule of the activities to take place.
- 3.4. At all Times (School Days and Non-School Days)
- A. Each person working in a school building or on school property shall comply with the following:
 - B. No drinking or possession of liquor or alcoholic beverages and or possession of any kind of illicit drugs or narcotics
 - C. No use of District facilities or equipment including telephone, computers, internet access, fax, kitchen, maintenance or office equipment
 - D. No smoking or use of any tobacco products anywhere within the building at any time nor outside the school on District property during normal school hours (This is a law and punishable as a civil infraction by local authorities)
 - E. A reasonable standard of dress must be followed. Within the educational facilities where students and parents are or can be present, this is to mean

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GENERAL NOTES

clothing or attire must be suitable for the work and must not bear images or writing depicting anything to be construed as obscene in nature or promoting or portraying alcoholic beverages or use, drugs, narcotics, tobacco or establishments that serve or promote the use of these substances

- F. There shall be no use of profanity or obscene language or gestures
- G. Language, gestures, or other actions that depict sexual or ethnic harassment or intimidation will not be permitted
- H. The contractor is responsible for a clean and safe workplace. To that end the following will be adhered to:
 - I. All work areas, walkways, and stairs must be kept clear of debris and loosely scattered materials
 - J. Material storage is to be in an area designated by the Owner
 - K. All work areas are to be cleaned by the contractor prior to leaving. Building staff will not be responsible for cleaning work areas
 - L. All trash, debris, and material must be removed from the worksite each day and disposed of offsite. District dumpsters and trash containers are not to be used by contractors for disposal
 - M. All contractor tools and equipment must be kept in good working order, with guards and safety devices in place and working. Defective tools must be taken out of service. District tools and equipment will not be loaned to contractors
 - N. Contractors are to provide, and use required protective safety equipment and comply with all local, state, and federal safety laws and regulations
 - O. Contractors are responsible for the reporting of accidents both to the Owner and their management and to obtain any emergency treatment that may be required
 - P. Upon leaving a jobsite all doors and windows must be locked, secured, or left as they were found prior to beginning the work
 - Q. Contractors are to provide their own site safety plan for areas that they are working in
 - R. Contractors are reminded that there is asbestos insulation in our buildings. They are not to disturb any insulation or enter any areas that contain asbestos containing building materials. If they have any questions, contact the Owner for direction
 - S. Contractor is not to disable or interfere with any fire or burglary system equipment or telephone lines servicing such equipment. If equipment needs to be removed, relocated, or temporarily disabled, the contractor needs to coordinate this with the Owner.
 - T. The District will not tolerate acts of theft, vandalism, fighting, or abuse of the facilities or activities that threaten the security and safety of the school environment and its students, staff, and employees.
 - U. In summary, good judgment must be used to protect the learning environment. Failure to comply with the above or to exhibit conduct which is deemed not in the best interest of the Dearborn Public Schools will be grounds for immediate removal from the building and the project.

END OF SECTION

SECTION 002416
SCOPE OF WORK
BID CATEGORY SPECIFIC NOTES

1. **BID CATEGORY – 06 – GENERAL CONTRACTOR**

1.1. **GENERAL**

- 1.2. The following shall not be interpreted as a complete itemization of the work to be performed under this Bid Category. This Bid Category, General 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.

1.3. **BID CATEGORY (BID CATEGORY 06 – GENERAL CONTRACTOR)**

BASE SPECIFICATION – (Include all Work specified or reasonably inferred)

ALL DRAWINGS AND SPECIFICATION AS ISSUED BY TMP DATED 8/12/2019

DIVISION 00 – PROCUREMENT AND CONTRACTING REQUIREMENTS

DIVISION 01 – GENERAL REQUIRMENTS

- 1.4. All labor, material, tools, equipment, general requirements, general conditions necessary to complete all work in the drawings and specifications for Administrative Service Center Remodeling as issued by TMP dated August 12, 2019.
- 1.5. Work shall be performed, primarily during 3:00 p.m. to 11:00 p.m., Monday through Friday. Any changes to the established schedule must have prior approval of the Owner and scheduled at the least disruptive time possible.

END OF SECTION

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. SCHEDULE REQUIREMENTS

- 2.1. Bidders shall review the milestone schedule for Work included in the construction documents and advise, at bid time, of any severe discrepancies identified.
- 2.2. Bid Proposals shall be based on overall time duration provided in the milestone schedule for all construction activities.
- 2.3. General Contractors will be required to submit monthly progress reports and updated schedules as requested by the Owner.
- 2.4. The General 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 all shop drawings, product data and samples required by the Contract Documents.

3. MILESTONE SCHEDULE

Board of Education Award of Contract	November 11, 2019
Construction Start	November 25, 2019
Substantial Completion	January 17, 2020

END OF SECTION

SECTION 004126
BID PROPOSAL FORM

BIDDER'S NAME: _____

PROJECT: Dearborn Public Schools
BID RELEASE NO.: Administrative Service Center Remodeling
OWNER: Dearborn Public Schools
18700 Audette Street
Dearborn, MI 48124
ARCHITECT: TMP Architecture
1191 West Square Lake Road
Bloomfield, MI 48302
CONTACT FOR BIDDING: Matt Wielechowski
TELEPHONE: (517) 643-0185
EMAIL: mwielechowski@clarkcc.com

1. BID

1.1. This Bid 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 Bid to enter into a Contract with Dearborn Public Schools and agrees to furnish all labor, material, equipment and service to complete the Work in accordance with the Contract Documents for:

A. Bid Category - 06 Description: General Contractor

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

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

2. ADDENDA

2.1. 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 _____

SECTION 004126
BID PROPOSAL FORM

3. BID SECURITY

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

4. PERFORMANCE AND LABOR AND MATERIAL PAYMENT BOND

- 4.1. A Performance and Payment Bond is required for any Bid of \$50,000 or more. The undersigned confirms that the cost of required Bonds is included in the base bid amount.

5. REJECTION OF BID

- 5.1. The undersigned acknowledges the right of the Dearborn Public Schools to reject any or all bids and to waive any informality or irregularity in the bid.

6. PROJECT SCHEDULE

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

7. EXTRA WORK

- 7.1. 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.

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.: _____

BIDDER'S NAME: _____

Date _____

Familial Disclosure Affidavit

The undersigned, the owner or authorized officer of _____ (the “Bidder”), pursuant to the familial disclosure requirement provided in the Dearborn Public Schools (the “School District”) Request For Bids hereby represents and warrants that, except as provided below, no familial relationships exist 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. A list of the School District’s Board of Education Members and its Superintendent may be found at <https://dearbornschools.org/district/board-of-education>

List any Familial Relationships:

BIDDER:

By: _____

Its: _____

STATE OF _____)
)ss.
COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____, 2018, by
_____.

_____, Notary Public

_____ County, _____

My Commission Expires: _____

Acting in the County of : _____

SECTION 005216
AGREEMENT FORM

1. **GENERAL**
2. The Contract form to be used for this Project shall be a modified AIA Document A101 – 2017 Standard Form of Agreement Between Owner and Contactor (Enclosed), as modified by Owner.

END OF SECTION

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, December 1984, Third Printing 1987, 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. Refer to AIA 101 Contract and A201 General Conditions of the Contract for further performance and payment bond information.

END OF SECTION

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 Contract
- B. General Conditions
- C. Trade Contractor Change Order Sample
- D. Certificate of Insurance Sample
- E. Application and Certificate for Payment (AIA G702 and G703 1992 Edition)
- F. Sworn Statement
- G. Partial Unconditional Waiver
- H. Full and Final Unconditional Waiver
- I. Materials Stored Payment Form
- J. Labor Rate Calculations
- K. Certificate of Substantial Completion (AIA G704)

END OF SECTION

DRAFT AIA® Document A101™ - 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the «» day of «» in the year «»
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Dearborn Public Schools
18700 Audette Street
Dearborn, Michigan 48124

and the Contractor:
(Name, legal status, address and other information)

«»
«»
«»
«»

for the following Project:
(Name, location and detailed description)

« Dearborn Public Schools improvements, including Administrative Service Center Remodeling, in accordance with the approved plans and specifications, all applicable laws, the Owner's fixed budget and as otherwise approved by the Owner.
»
«»
«»

The Architect:
(Name, legal status, address and other information)

TMP Architecture
1191 West Square Lake Road
Bloomfield Hills, MI 48302

The Owner and Contractor agree as follows.

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.

The parties should complete A101™-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, bid specifications and Owner-accepted portions of bid responses, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others. Without reducing or eliminating any specific duties of the Contractor set forth in the Contract Documents or required by law, the Contractor's work shall at all times minimally comply with the industry standard for the type of work described.

The Contractor's Work shall specifically include Bid Category 6A – General Contractor

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[] The date of this Agreement.

[] A date set forth in a notice to proceed issued by the Owner.

[] Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

« _____, 20__ »

If a date of commencement of the Work is not selected or is blank, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[] Not later than () calendar days from the date of commencement of the Work.

[] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
<input type="text"/>	<input type="text"/>

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

§ 3.4 Time of the Essence. Notwithstanding the fact that the Contract Time may be extended as approved by the Owner and Architect in accordance with the Contract Documents, time is of the essence for this contract, and the Contractor shall begin work as directed by the Architect, shall furnish sufficient materials, and shall furnish a sufficient number of properly skilled workers so as not to delay its work, the work of any other contractor, or the completion of the Project.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Dollars » (\$ »), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
<input type="text"/>	<input type="text"/>

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner in writing following execution of this Agreement. Upon the Owner's written acceptance, the accepted alternate shall constitute a Modification to this Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
<input type="text"/>	<input type="text"/>	<input type="text"/>

§ 4.3 Allowances, if any, included in the Contract Sum:

(Identify each allowance.)

Item	Price
<input type="text"/>	<input type="text"/>

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
<input type="text"/>	<input type="text"/>	<input type="text"/>

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

<< >>

§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

<< >>

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month:

<< >>

§ 5.1.3 The Contractor shall submit Applications for Payment as set forth in the Contract Documents. Provided that the Architect-certified Application for Payment is received by the Owner not later than the « last » day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the « last » day of the « following » month, unless and to the extent the Owner disputes the propriety of the payment, the services performed, or the amount certified in good faith. The Owner shall have no obligation to pay the Contractor in the absence of the Owner's receipt of an Architect-certified Application for Payment. .

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment. The Contractor's failure to provide a schedule of values, or to timely update it as Work progresses, shall be a substantial breach of this Agreement.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction as modified by the Owner, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Owner determines, after advice and consent from the Architect in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, refuse to certify in the Certificate for Payment, or nullify a Certificate for Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 Any amount for which the Owner may withhold payment; and
- .6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« Ten percent (10%) »

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« Not applicable. All payments due Contractor are subject to retainage. »

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

« Any reduction in the retainage of this Agreement shall be in the sole discretion of the Owner, and the Owner reserves the right to restore the retainage to its full contract amount in the event the Owner believes the retainage restoration is desirable. »

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Final Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Final Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

« Damages incurred by the Owner due to the Contractor's negligence or breach of this Agreement. »

§ 5.1.8 The Owner may withhold amounts from any progress payment as a setoff or recoupment for damages or losses incurred due to the Contractor's negligent acts or omissions or the Contractor's failure to perform under the requirements of the Contract Documents. Such withheld amounts shall not constitute retainage..

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017 as modified, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.2.3 Amounts withheld from the final payment to cover any incomplete work are not considered retainage and shall not be paid to the Contractor until the work is actually completed and accepted. Such withholdings shall not be less than 150% of the estimated cost to complete the work.

<< >>

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear no interest

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 as modified.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

<< >>
<< >>
<< >>
<< >>

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017 as modified, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

[] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[] Litigation in a court of competent jurisdiction

[] Other *(Specify)*

>>

If the Owner and Contractor do not select a method of binding dispute resolution, or the Owner/Architect Agreement contains a method of binding dispute resolution that is different than the one provided in this Agreement, or the Owner and Contractor do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by the method of binding dispute resolution provided in the Owner/Architect Agreement.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017 as modified.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017 as modified.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as modified by the Owner and as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

<< _____ >>
<< _____ >>
<< _____ >>
<< >>
<< >>
<< >>

§ 8.3 The Contractor’s representative:

(Name, address, email address, and other information)

<< _____ >>
<< _____ >>
<< _____ >>
<< >>
<< >>
<< >>

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance and bonds as set forth below and elsewhere in the Contract Documents.

§ 8.5.2 **Owner's Insurance.** The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance. Unless the obligation to purchase builder's risk insurance is placed on the Contractor pursuant to another provision of the Contract Documents, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ 8.5.2.1 The insurance required by Section 8.5.2 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. If provided by the Contractor, the insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit
_____	_____

§ 8.5.2.2 The insurance required by Section 8.5.2 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The term "temporary structures", as used in this section, shall not include job trailers for any party. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit
_____	_____

§ 8.5.2.3 The policy of insurance required by Section 8.5.2, if purchased by the Owner, 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. 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. The Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless the parties agree otherwise in writing.

§ 8.5.2.4 Nothing in this Agreement or the Contract Documents shall be interpreted to require a waiver of subrogation that detrimentally affects Owner's insurance coverage or provider, or to require the Owner to limit

liability or waive claims of any kind. Any reference to such waivers of subrogation, liability limitations, or claim waivers shall be deemed null and void.

§ 8.5.3 Contractor Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Section 8.5.3 and its subparts at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the later of: (i) if an occurrence-based policy, two years after substantial completion, and (ii) if a claims-made policy, seven years after substantial completion. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ 8.5.3.1 The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor. The Contractor shall be responsible to pay for any such deductibles or self-insured retentions.

§ 8.5.3.2 To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage 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 for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. The additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ 8.5.3.3 The Contractor shall purchase and maintain all insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until six years following the Date of Substantial Completion.

§ 8.5.3.4 Commercial General Liability

§ 8.5.3.4.1 The contractor shall purchase and maintain Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than «One Million Dollars» (\$ «1,000,000») each occurrence, «Two Million Dollars » (\$ «2,000,000 ») general aggregate, and «Two Million Dollars » (\$ «2,000,000 ») aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 contractual obligations, including the indemnity obligations under Section 3.18 of the General Conditions.

§ 8.5.3.4.2 The Contractor's Commercial General Liability policy under this Section 8.5.3.4 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.
- .12 Claims related to contractual obligations.

§ 8.5.3.4.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than «Two Million Dollars» (\$ «2,000,000 ») per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 8.5.3.4.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under this Agreement and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 8.5.3.5 Workers' Compensation at statutory limits.

§ 8.5.3.6 Employers' Liability with policy limits not less than «Two Million Dollars» (\$ «2,000,000 ») each accident, «Two Million Dollars» (\$ «2,000,000 ») each employee, and «Four Million Dollars» (\$ «4,000,000 ») policy limit.

§ 8.5.4 Contractor's Other Insurance Coverage

§ 8.5.4.1 Insurance selected and described in this Section 8.5.4 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the State of Michigan. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

« »

§ 8.5.4.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section 8.5.4.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- [« »] § 8.5.4.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section 8.5.2, which, if selected in this Section 8.5.4.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance required by Section 8.5.2. The Contractor shall comply with all obligations of the Owner under Section 8.5.2 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Contractor shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section 8.5.2, indicate such differences in the space below.

Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

« »

[« »] § 8.5.4.2.2 **Railroad Protective Liability Insurance**, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for Work within fifty (50) feet of railroad property.

[« »] § 8.5.4.2.3 **Asbestos Abatement Liability Insurance**, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[« »] § 8.5.4.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an “all-risks” completed value form.

[« »] § 8.5.4.2.5 Property insurance on an “all-risks” completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[« »] § 8.5.4.2.6 **Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits

§ 8.5.5 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the State of Michigan, as follows:

Type	Penal Sum
Payment Bond	100% of the Contract Sum
Performance Bond	100% of the Contract Sum

Unless otherwise provided in the Contract Documents, Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, with any limitations period for filing Performance Bond claims no less than seven (7) years following substantial completion.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 8.7 Other provisions:

«§ 8.7.1 In the event of mediation or dispute hearing, including litigation or arbitration, arising out of or relating to this Agreement, the Owner reserves the right to require that it be conducted in the general area where the Owner’s principal place of business or main administrative office is located. Any mediation with respect to this Agreement shall be non-binding.

§ 8.7.2 The Owner reserves the right in its discretion to require consolidation or joinder of any dispute arising out of or relating to this Agreement with another dispute involving a person or entity not a party to this Agreement, in the event the Owner believes such consolidation or joinder is necessary in order to resolve a dispute or avoid duplication of time, expense or effort.

- § 8.7.3 In the event the Owner is involved in a dispute which is not subject to arbitration or mediation involving a person or entity not a party to this Agreement, the arbitration and/or mediation provisions of this Agreement shall be deemed to be void and nonexistent in the event the Owner, in its discretion, determines the Contractor should become a party to that dispute by joinder or otherwise.
 - § 8.7.4 The Contractor shall include similar dispute resolution provisions in all agreements with subcontractors, sub-consultants, suppliers, or fabricators so retained, thereby providing for a consistent method of dispute resolution between the parties to those agreements.
 - § 8.7.5 In the event of any inconsistency between this Agreement and AIA Document A201–2017 Edition, General Conditions of the Contract for Construction, applicable for this Agreement, as modified by the Owner (the “General Conditions”), the terms of this Agreement shall govern.
 - § 8.7.6 Claims by the Owner arising under this Agreement shall be subject to the limitations periods defined in Michigan law, except that in no event shall a claim by the Owner be deemed untimely if filed within six (6) years of final project completion. This provision is acknowledged to apply notwithstanding any other and shorter time frames contractually applicable to claims of the Contractor.
 - § 8.7.7 The modifications made to the General Conditions by the Owner are hereby incorporated into this Agreement. The Contractor may request a copy of the same.
 - § 8.7.8 Notwithstanding any provisions within the Contract Documents , nothing shall be deemed a waiver of any immunity granted to Owner by law or statute, including but not necessarily limited to, governmental immunity under MCL 691.1407.
 - § 8.7.9 The Owner, being a governmental unit, is protected by the Michigan Void Construction Contracts Act, MCL 691.991.
 - § 8.7.10 The Contractor agrees that neither it nor its Subcontractors will discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, 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 Agreement.
 - § 8.7.11 All Contractor employees assigned to work under this Agreement may, at Owner’s discretion, be subject to a background check and clearance by the Owner. Failure to obtain such clearance from the Owner may result in mandatory dismissal from the Owner’s property and/or termination of the Agreement.
- »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor, as modified
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction as modified by the Owner
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

« »

- .5 Drawings

Number	Title	Date
« »		

- .6 Specifications

Section	Title	Date	Pages
« »			

.7 Addenda, if any:

Number	Date	Pages
« »		

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in Article 1 or this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[« »] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

« »

[« »] The Sustainability Plan:

Title	Date	Pages
« »		

[« »] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
« »			

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents..)

« Invitation to Bid
Project Manual Accepted portions of Contractor’s Bid (if consistent with Contract Documents)»

In the event of any inconsistency or ambiguity between or among the various Contract Documents, the terms most beneficial to the Owner (as determined in the Owner’s sole discretion) shall govern.

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

DEARBORN PUBLIC SCHOOLS,

ALARK Development Group, LLC,

« »

OWNER (Signature)

« »« »

(Printed name and title)

« »

CONTRACTOR (Signature)

« »« »

(Printed name and title)

Modified: 11/29/18; 2:47pm

DRAFT AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Dearborn Public Schools – Administrative Services Center Remodeling, 18700 Audette Street, Dearborn, MI 48124)

Dearborn Public Schools improvements, including **Administrative Service Center Remodeling**, in accordance with the approved plans and specifications, all applicable laws, the Owner's fixed budget, and as otherwise approved by the Owner.

THE OWNER:

(Name, legal status and address)

Dearborn Public Schools
18700 Audette Street
Dearborn, Michigan 48124

THE ARCHITECT:

(Name, legal status and address)

TMP Architecture
1191 West Square Lake Road
Bloomfield Hills, MI 48302

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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.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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14 TERMINATION OR SUSPENSION OF THE CONTRACT

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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) 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 or proposal requirements. The Contractor's execution of the Owner/Contractor Agreement and the Architect's execution of the Owner/Architect Agreement shall constitute their respective 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.

§ 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. If the Drawings and Specifications conflict with each other regarding 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 with the Owner’s consent.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Contract.

§ 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, Drawing, or other information that establishes the responsibility. Thus, for example, the Contractor shall be responsible for all Work required of it, even though that responsibility may be shown only in that portion of the Contract 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 following order of interpretation shall apply.

- .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 is most favorable to the Owner, as determined in the Owner’s sole discretion.
- .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 Subcontract(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 that the Contractor is responsible to provide under the Contract Documents 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, and 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.

§ 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 in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and 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 the 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 suppliers are authorized to use and reproduce the Instruments of Service, subject to any protocols established pursuant to Sections 1.7 and 1.8, 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 suppliers may not use the Instruments of Service on other projects or for additions to the 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 any tests, surveys, or inspections at the Project Site and the results therefrom, as well as all photographs, drawings, specifications, schedules, data processing output, computer-aided design/drafting (CADD) 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 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, 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 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to an appropriate representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by registered or certified mail, by courier, or by electronic transmission if an acknowledgment of receipt is received from the recipient or proof of receipt is otherwise established. The parties acknowledge that an appropriate representative of the Owner shall have authority only to the extent provided by the Owner’s Board of Education.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to an appropriate representative of the party to whom the notice is addressed by

certified or registered mail, or by courier providing proof of delivery. The parties acknowledge that an appropriate representative of the Owner shall have authority only to the extent provided by the Owner's Board of Education.

§ 1.7 Digital Data Use and Transmission

The parties may agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

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 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.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish, as applicable, to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall immediately notify the Owner that the Work has stopped and state with specificity why any evidence provided (or not provided) by the Owner is insufficient. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents. The parties' disagreement as to the appropriateness of payment for services performed shall not constitute the Owner's failure to make financial arrangements to fulfill the Owner's obligations under the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where information is protected by law and/or the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose such "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. To the extent permitted by law, the Contractor may also disclose such "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 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.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the State of Michigan. 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.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 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, and exercise of professional caution, 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 site utilities or existing structures prior to the opening of the Contractor's bid.

§ 2.3.5 Upon specific written request by the Contractor, 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.

§ 2.3.6 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.

§ 2.4 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.

§ 2.5 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 three-day period after receipt of notice from the Owner or the Owner's designee (including, for this purpose, the Architect) 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 default or neglect. 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. The Architect may also, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including the aforementioned Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15. 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, the Owner may withhold any payments due Contractor to cover all costs for labor, material, and equipment plus that other entity's administrative, profit, and overhead costs. 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 its 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 or the Subcontractor's Subcontractor or supplier, at any tier, causes any type of defective Work, injury, loss or damage 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 Subcontractor.

§ 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 2.3.4, 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 submit 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. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be 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 notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative 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. The Contractor shall be deemed to have accepted prior work when it commences provision of subsequent Work and shall be responsible for the cost of repair, replacement, or reconstruction if the prior work is found to be improper.

§ 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 approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 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 it nor its 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 the 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, anthorphyllite 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 its 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 will be asbestos-free.

§ 3.4.8.2 The Contractor also shall 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

§ 3.5.1 In addition to any other warranties, guarantees, or obligations set forth in the Contract Documents or applicable as a matter of 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 purposes for which they are intended.
- .4 The Work and all materials and equipment incorporated into the Work will be merchantable.
- .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 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 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.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 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 local, 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 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 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Owner and Architect determines 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 that an equitable adjustment be made 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 submit a Claim as provided in Article 15. The requirements of Section 2 of 1998 PA 57, as amended, are hereby incorporated into this document. 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 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 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 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 notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Owner and/or the Architect may notify the Contractor, stating whether the Owner and/or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review.

§ 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 and Submittal 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 contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits required under the Contract Documents or any scheduling updates issued by the Architect or Owner. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. 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.

The Contractor shall cooperate with the Architect and Owner in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other contractors or the construction or operations of the Owner's own forces. The Contractor acknowledges and understands that the work schedule will be modified from time-to-time with the Owner's approval to coordinate with the work of others and that such schedule changes do not give rise to a claim for damages or additional compensation by the Contractor for delay or

otherwise. The Contractor shall be required to conform to the most recent Owner-approved schedule and acknowledges that fact was taken into account when it agreed to the Contract Sum and entered into this Contract.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Owner's and Architect's approval. The Owner's and the Architect's approvals shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, (2) allow 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, or fails to provide submittals in accordance with the approved 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 Progress Meetings: Meetings of representatives of the various Contractors may 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 and/or Architect.

§ 3.10.5 The 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 Architect 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 Contract Sum 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 make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and 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 how 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, or similar submittals require more than one resubmission to secure the approval of the Architect, the Contract amount may be reduced by (1) the amount of the actual delay damages charged or suffered by the Owner, but in any event not less than \$100 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 the 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 notified 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 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.

§ 3.12.10.1 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. Subject to its professional skill and expertise, the Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately 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 and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and 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.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 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, 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. Unless otherwise approved by the Owner, all work shall be performed during the hours and on the days set forth in the Specifications, in accordance with the most-recent project schedule, and/or as directed by the Owner or Architect. 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 the Contract Time, on account of any postponement, rescheduling, or other delays ordered by the Owner in connection with any Work for which appropriate notice was not furnished.

§ 3.13.3 The Contractor will consult with the Owner and the Architect 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, or patching shall be restored to the condition existing prior to the cutting, fitting, or 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 construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor and its Subcontractors, under the Contractor's direction, shall keep the premises and surrounding area free from accumulation of waste materials and 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 the 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 the 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 with 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 shall indemnify and hold harmless the Owner and Architect from any and all cost, damages, or loss on account thereof, including, but not limited to, actual attorneys' fees, but shall not be responsible for 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 an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the 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, or the failure to perform, the Work or the duties or obligations of the Contractor under the Owner/Contractor 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 the Contractor's breach of the Contract Documents or any negligent or wrongful acts or omissions of the Contractor, 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 for 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 Section 3.18. 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 hold 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 hold harmless the Owner and Architect from and against the payment of the following:

- .1 all contributions, taxes, or premiums (including interest and penalties thereof) 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;
- .2 all sales, use, personal property and other taxes (including interest and penalties thereof) 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
- .3 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.

§ 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 the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement. 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 and 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 more frequently as agreed with the Owner or required by law, to become familiar with the progress and quality of the portion of the Work completed, and to determine if 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 or in the Owner/Architect Agreement, 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. The Architect shall provide all services and duties that may be performed by an “Architect” or “Engineer” in 1937 PA 306 and 1980 PA 299.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner informed about the progress and quality of the portion of the Work completed, will guard the Owner against defects and deficiencies in the Work, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. Except as required by the agreement between Owner and Architect or this document, 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, except as provided in the agreement between Owner and Architect or this document, 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. The Architect shall provide all services and duties that may be performed by an “Architect” or “Engineer” in 1937 PA 306 and 1980 PA 299.

§ 4.2.4 Communications

The Owner and Contractor shall endeavor to include the Architect in all communications that relate to or affect the Architect’s services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise materially affecting the Project. Communications by and with the Architect’s consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 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 13.4.2 and 13.4.3, whether or not the 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, 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 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 order 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.

§ 4.2.11 The Architect will interpret 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 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, the Architect will endeavor to secure faithful performance by Contractor, 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 the subcontractors of a Separate Contractor. The term “Subcontractor” shall also include Sub-subcontractors at any tier and 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 notify the Owner and Architect in writing of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. All contractual agreements with additional persons or entities serving as a Subcontractor or supplier 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 for one 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 (10) days prior to such proposed change.

§ 5.3 Subcontractual Relations

By appropriate written agreement, 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 that the Contractor, by these Contract 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 may be adjusted as negotiated by the parties.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity.

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 term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance. The Contractor shall be responsible for coordinating the Work and 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 any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its 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.

§ 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 notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work 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. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not 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.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor causes to completed or partially completed construction or to property of the Owner or Separate Contractor 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 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 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.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, 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 7.3.4.

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 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 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 7.3.6 shall be limited to a reasonable amount of the following that are actually incurred by the Contractor:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .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, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.7 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.8 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 7.3.9.

§ 7.3.9 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.

§ 7.3.10 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.

§ 7.3.11 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 the Contractor to disagree and assert a Claim in accordance with Article 15.

§ 7.3.12 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.

§ 7.3.13 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 or the Construction Schedule.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall either (i) file a Claim in accordance with Article 15 and continue to implement the change in the Work, or (ii) notify the Owner and Architect in writing and shall not proceed to implement the change in the Work. Without limiting other restrictions on payment, if the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

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, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 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 a Separate 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 (24) 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 Separate Contractor, Subcontractor, supplier, or other entity on the Owner's behalf. The Owner may withhold such costs from the subsequent payments due the Contractor. To the extent such withholdings are insufficient to cover the costs, the Contractor shall pay the difference within ten (10) days of receiving an invoice for the same. 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 (14) 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 (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by fire, unavoidable casualties, significant and unusual adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending litigation, mediation, arbitration or binding dispute resolution, as applicable; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine and with which 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. Under no circumstances may the Contractor assert a Claim, cause of action, or other relief against the Owner for delay damages.

§ 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 Liquidated Damages: The Owner and Contractor recognize that time is of the essence of the Contract and that the Owner will suffer financial loss if the Work is not Substantially Complete and approved for occupancy within the time limits specified, plus any extensions of time as allowed by the General Conditions. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not Substantially Complete on time due to several factors, including the unique position of the Owner as a public school. Accordingly, instead of requiring any such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty) caused by the Contractor, the Contractor shall pay the Owner Five Hundred Dollars (\$500) for each day that expires after the date of Substantial Completion for the Project until the Work is Substantially Complete. Liquidated Damages charges shall be deducted from the payments owed to the Contractor. The Owner reserves the right to demand legal proceedings should the actual loss be reasonably known to exceed the

damages provided herein. Any allegation of damages for delay asserted by the Contractor against the Owner shall be governed by Section 8.3.3, Section 8.4.3, and Section 8.4.4 contained herein.

§ 8.4.3 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.

§ 8.4.4 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 (\$100) 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

§ 9.1.1 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.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

The Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Owner or Architect may require, and unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor's subsequent 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 G702 - Application and Certificate of Payment, and AIA Document G703 - 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
Training and O&M Manuals	1.0% of Contract Sum
Attic Stock Materials	0.5% of Contract Sum
Punchlist Completion	2.0% of Contract Sum
Warranty and Guaranty Documents	0.5% of Contract Sum

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen (15) 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. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and 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 G703, Continuation Sheet, unless otherwise agreed by the Owner. Applications for Payment are due to the office of the Architect 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 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 for 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 the 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 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, suppliers, or other persons or entities that 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 (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole 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 in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. 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. 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 Agreement between the Owner and the Architect or applicable law, construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and 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 is 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 suppliers 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 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;
- .9 representations of the Contractor are untrue;
- .10 failing to conform to Project Schedule;
- .11 default in the performance of any obligation to the Owner under another contract; or
- .12 failure to provide sufficiently skilled workers.

§ 9.5.2 When the Contractor disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, the Contractor may submit a Claim in accordance with Article 15.

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

§ 9.5.4 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 supplier 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 Contractor shall reflect such payment on its next Application for Payment.

§ 9.5.5 If the Contractor disputes any determination by the Owner or Architect 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.

§ 9.5.6 Notwithstanding anything herein to the contrary, the Owner has no obligation to pay the Contractor absent receipt of a Certificate for Payment for the requested amount, and neither the Architect's failure to issue a Certificate for Payment nor the Architect's failure to notify the Contractor and/or Owner of a withheld Certificate for Payment creates an obligation on the Owner to pay the Contractor. The foregoing sentence shall not operate to limit the right of the Owner to dispute amounts requested by the Contractor or to withhold payments from the Contractor as provided in the Contract Documents.

§ 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 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 and suppliers 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 or supplier, except as may otherwise be required by law.

§ 9.6.5 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, suppliers, 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, suppliers, 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, suppliers, 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 or provided by 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, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or 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 The Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.6.9 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 without justifiable basis under the Contract Documents, including these General Conditions, the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the undisputed amount asserted by the Contractor in its Application for Payment or awarded by a court, then the Contractor may, upon twenty-one (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 shutdown, delay and start-up, plus interest as provided for in the Contract Documents. The Contractor acknowledges the Owner's right to dispute in good faith any amount requested by the Contractor, and, irrespective of the Architect's issuance of a Certificate for Payment, the Owner's right to withhold payments from the Contractor, including, without limitation, to correct Work that fails to conform with the Contract Documents or as an offset or recoupment to recover the cost of damages incurred by the Owner due to the Contractor's breach of the Contract or a wrongful or negligent act or omission of the Contractor.

§ 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 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; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and 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 the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the 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 corrected (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 fifteen (15) 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 any remaining payments due the Contractor shall be withheld by the Owner.

§ 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 re-inspection 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 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. 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. 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 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, (3) a written statement that the Contractor knows of no 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) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, (6) an affidavit that states the Work is fully completed and performed in accordance with the Contract Documents, (7) 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, (8) a general release executed by the Contractor on a form provided by the Architect, (9) all close-out documents, (10) all warranties collected and provided in an acceptable manner, and (11) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and 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, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance 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 the lien, claim, security interest, or encumbrance, 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, corrected, 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 the 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.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a 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 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.

§ 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, a Subcontractor, or a Sub-subcontractor; 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 take all reasonable safety precautions with respect to its Work and 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 Contractor's or its Subcontractor's employees at the site within one (1) day after the occurrence of such injury.

§ 10.2.3 The Contractor shall implement, 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 the owners and users of adjacent sites and utilities of the safeguards.

§ 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 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. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is 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 the Contractor suffers injury or damage to person or property because of an act or omission of the Owner, or of others for whose acts the Owner is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the Owner within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the 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 limitation periods 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 sentence, the Contractor shall comply with all laws applicable to student and/or school safety.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. 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 notify the Owner and Architect in writing of the condition.

§ 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 the material or substance or who are to perform the task of removal or safe containment of the material or substance. 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 to address shutdown, delay, and start-up.

§ 10.3.3 NOT USED.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site. To the extent the Contract Documents require the removal, transport and disposal of hazardous materials, the Contractor agrees that it assumes responsibility for said tasks as part of the Contract.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances 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.

§ 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 the MISS DIG notification system, as legally required and, if applicable, any Registered Utility Protection Service of the utility company possibly affected by the planned work by certified mail with return receipt requested.

§ 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). The Contractor shall wait for the applicable utility to stake and/or mark its utility lines before commencing the relevant Work

§ 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 the Contractor, Architect, Subcontractors, 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. The Contractor shall be responsible to implement commercially reasonable data security protection measures to protect the Owner's networks and data when performing technology-related Work.

§ 10.7 Fire Protection

§ 10.7.1 The Contractor shall maintain free access to the building areas for firefighting equipment and shall at no time block off main roadways or fire aisles without providing adequate auxiliary roadways and means of entrance for firefighting equipment, including heavy fire department trucks, where applicable.

§ 10.7.2 The Contractor shall at all times cooperate with the Owner and kept 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 the 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 time, 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 Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as required by law and as otherwise described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies rated A- or better by A.M. Best Company and

lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 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. The Owner may also require, through the Contract Documents or otherwise, that any contract valued at \$50,000 or less shall also include payment and performance bonds each in the penal sum of up to 100% of the Contract Sum. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located. The Contractor shall obtain and provide to the Owner copies of any and all bonds required by the Contract prior to Contractor beginning performance pursuant to the Contract. 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.

§ 11.1.2.1 The Contractor's liability insurance shall be not 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 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.

§ 11.1.4 For all insurances under for which the Contractor is obligated to have its insurance company name the Owner, Architect and Architect's consultants 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." Should the Contractor's insurance costs increase due to adding the Architect and/or Architect's Consultants as additional insureds, and should such costs be passed on to the Owner, the Architect and Architect's Consultants, as applicable, shall reimburse the Owner for such additional costs.

§ 11.1.5 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Immediately after the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration, including the Contractor's plan to immediately procure replacement insurance as required by the Contract Documents to avoid any lapse in coverage. Contractor's failure to do so is a material breach of this Agreement, shall entitle the Owner to purchase replacement insurance at Contractor's sole cost, and shall subject the Contractor to any and all damages related to its failure to comply with its required insurance obligations. Further, upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the

Owner, have the right, but not the obligation, to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. This policy will exclude any tools, equipment, scaffolding, glass breakage, etc., owned or rented by the Contractor or Subcontractors and materials stored on the site, but not incorporated into the Project. The Contractor shall be responsible for protecting all product until the Date of Final Completion is established by the Architect/Engineer. The Contractor shall replace any Work if damaged before Final Completion. The Contractor may assume the risk itself or obtain insurance in amounts it deems sufficient.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may obtain insurance of reasonable type and coverage amount that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work and the parties shall negotiate an adjustment to the Contract Sum and Contract Time. Property Insurance provided by the Owner will cover only Work incorporated into the construction and will not cover tools, equipment, or other property owned, leased, rented, or borrowed by the Contractor, Subcontractor, Sub-Subcontractor, or others.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor and (2) the Contract Time and Contract Sum shall be negotiated. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 Superior to any other provision herein or elsewhere in the Contract Documents, any references to "waiver of subrogation" or such similar provisions are hereby deleted and shall be declared to have no effect.

§ 11.3.2 NOT USED.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement 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 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner. The Owner shall use its best efforts, with consultation of the Architect, to reach a quick and fair settlement for all interested parties, with the insurance companies after a loss.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the

Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15 if the Contractor timely and properly files a claim under Article 15.. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

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 or Contract Sum.

§ 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, the Contractor shall be entitled to a negotiated adjustment to the Contract Sum and Contract Time as may be appropriate. At the time the 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, the costs of uncovering the Work, and the cost of 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 Contract Time, without increase in the Contract Sum, and without use of any contingency.

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including work of other Contractors and Subcontractors, compensation of consultants, any delay or related damages, attorneys' fees incurred by the Owner, 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. The Owner shall have the right to charge the Contractor for any such costs and expenses and to deduct such amounts from any future payments 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 year 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 any 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 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. 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 2.5.

§ 12.2.2.2 The one-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-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 of the Owner or Separate Contractors, whether completed or partially completed, 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 or other provisions of the Contract Documents establishing a "correction warranty" or other similar concept shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents, including, without limitation, Section 3.5. Establishment of the one-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 substantial breach, and the Owner may terminate the Contract immediately. The Owner's right of termination in this Section 12.2.6 is separate and distinct from the right of termination in Section 14.2. 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 back charge and/or withholding future payments due the Contractor 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 reinspections 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 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 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 the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 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.

§ 13.3.2 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 thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 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 tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 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 13.4.1, 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 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 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.

§ 13.4.4 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.

§ 13.4.5 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.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties 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. For any late payments by the Owner, the interest rate shall not exceed five percent (5%) per annum (see MCL 438.31).

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, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, 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 Owner has not made payment on an undisputed 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 reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, 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, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work 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 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 or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 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 the 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 reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, three (3) days' notice, terminate 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.

The three (3) day notice period identified in this Section does not give rise to an opportunity for the Contractor to cure the cause for termination. Further, the Owner's failure to properly follow the termination procedure shall not be a substantial or material breach of the Contract or the Owner's obligations.

§ 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 under 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 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 Owner shall pay the Contractor for Work properly executed and costs incurred by reason of the termination.

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, a change in the Contract Time, 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. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents. 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 15.1.1 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 Time Limits on Claims

The Owner and Contractor shall commence all Claims as set forth herein and shall pursue all causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the 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 15.1.2. The Owner shall commence all claims and causes of action in accordance with Section 13.1 and Section 15.1.2.1, regardless of any other time frames identified in the Contract

Documents. The Contractor shall commence all Claims and causes of action in accordance with Section 15.1.2 and Section 15.1.3, other provisions of the Contract, and in accordance with Michigan law.

§ 15.1.2.1 Regardless of any provisions to the contrary, the limitations period with respect to any Claim or cause of action 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.

§ 15.1.2.2 Surety Notice and Prior Approval

Except where otherwise expressly required by the terms of the Agreement 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 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.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by the Contractor shall be initiated by notice to the Owner 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 the Contractor shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. The Contractor's failure to timely and properly initiate a Claim shall be an absolute and irrevocable waiver of such Claim and any cause of action. Claims and causes of action 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. The parties acknowledge, understand, and agree that the Contractor's required prompt filing of a Claim is critical to the Project, as Contractor Claims often affect the Project schedule and/or Project budget, and that the deadline and waiver applicable to Contractor Claims is a material inducement to the Owner entering into an agreement with the Contractor.

§ 15.1.3.2 NOT USED.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim or cause of action, 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.

§ 15.1.4.2 NOT USED.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Failure to provide such notice shall serve as an absolute bar against a Claim or cause of action 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 or cause of action for additional cost by the Contractor. Delays may be remedied only through an extension of time per Sections 8.3.4 and 15.1.6.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided in Section 15.1.3 shall be given. Failure to give such notice shall be an absolute and irrevocable waiver of a Claim or cause of action 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.

§ 15.1.6.2 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.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor waives Claims and causes of action against the Owner for consequential damages arising out of or relating to this Contract. This waiver includes, without limitation:

- .1 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 waiver is applicable, without limitation, to all consequential damages due to either party's termination. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims of the Contractor shall, and Claims of the Owner may, be referred to the Initial Decision Maker for initial interpretation. The Architect will serve as the Initial Decision Maker. Except for those Claims excluded by this Section 15.2.1, an initial interpretation shall be required as a condition precedent to mediation, arbitration and/or litigation of any Claim brought by the Contractor against the Owner. If an initial interpretation has not been rendered within 30 days after a Contractor-required or Owner-requested Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without an 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 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 suppliers 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 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 the 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 interpretation approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial 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. If the Claim is timely and properly asserted, the initial interpretation shall be subject to the parties' agreed-upon dispute resolution process.

§ 15.2.6 NOT USED.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner, Architect or Initial Decision Maker may, but is 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.

§ 15.3 Mediation

§ 15.3.1 Except as stated in this Agreement or otherwise agreed in writing by the parties, Claims, disputes, or other matters in controversy 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 commencement of the parties-agreed-upon dispute resolution proceedings but, in such event, mediation shall proceed in advance of 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. All limitations periods shall be tolled during the mediation process.

§ 15.3.3 NOT USED.

§ 15.3.4 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 Consolidation or Joinder

The Contractor further agrees to include similar dispute resolution provisions in all agreements with the Subcontractors, suppliers, and independent contractors and consultants retained for the Project and to require them to include a similar dispute resolution provision 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 periods shall be tolled until the conclusion of that process.

With the exception of matters solely dealing with the Contract, 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 the Contract, 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.

Modified: 11/29/18; 2:40pm



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

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 #
INSURER A : A Rated Insurance Company		
INSURER B : A Rated Insurance Company		
INSURER C : A Rated Insurance Company		
INSURER D : A Rated Insurance Company		
INSURER E : A Rated Insurance Company		
INSURER F : A Rated Insurance Company		

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 SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> X, C & U <input checked="" type="checkbox"/> Broad Form Property Damage GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC		<input checked="" type="checkbox"/>				EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Fire Damage \$ 100,000
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS		<input checked="" type="checkbox"/>				COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		<input checked="" type="checkbox"/>				EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			N/A			<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

Clark Job 18-2778 Dearborn Public Schools.

Dearborn Public Schools, Clark Construction Company and TMP Architecture are listed as additional insureds

CERTIFICATE HOLDER Clark Construction Company 3535 Moores Reiver Drive Lansing, MI 48911	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

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

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.

Application and Certificate for Payment

TO OWNER:	PROJECT:	APPLICATION NO:	<u>Distribution to:</u>
		PERIOD TO:	OWNER <input type="checkbox"/>
FROM CONTRACTOR:	VIA ARCHITECT:	CONTRACT FOR:	ARCHITECT <input type="checkbox"/>
		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 of 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 _____ day of _____

Notary Public:

My commission expires: _____

SAMPLE

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 or a local AIA component to verify the most recent edition.

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COMPLETING G702

SAMPLE

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.

SWORN STATEMENT

STATE OF: _____ }
 COUNTY OF: _____ } SS

_____ (deponent), being sworn, states the following:

_____ is the (contractor) (subcontractor) for an

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) 372-0666

MATERIALS STORED PAYMENT FORM

Progress Payment Number _____ Bid Package No./Category _____ Description _____

- 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>
		\$
		\$
		\$
		\$
		\$

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

\$ _____

- 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.
- 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.
- Stored Materials are to be roped off or separated from all others. Boxes or pieces must be clearly marked.
- Owner and/or Construction Manager reserves the right to inspect stored material at any time.
- 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: _____

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

Signed: _____

Title: _____

Date: _____

LABOR RATE CALCULATIONS

TRADE: _____

WAGES

Base Rate
Vacation/Holiday
Dues

STRAIGHT TIME	
JOURNEYMAN	FOREMAN

TIME & ONE HALF	
JOURNEYMAN	FOREMAN

DOUBLE TIME	
JOURNEYMAN	FOREMAN

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

--

--

--



AIA[®]

Document G704/CMa[™] – 1992

Certificate of Substantial Completion Construction Manager-Adviser Edition

PROJECT:

(Name and address):

PROJECT NUMBER: /

CONTRACT FOR: General Construction

CONTRACT DATE:

TO OWNER:

(Name and address)

TO CONTRACTOR:

(Name and address):

OWNER:

CONSTRUCTION MANAGER:

ARCHITECT:

CONTRACTOR:

FIELD:

OTHER:

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.)

SECTION 007216
GENERAL CONDITIONS

1. **GENERAL**

- 1.1. The General Conditions of the Contract for Construction shall be the AIA Document A201-2017 (Enclosed) as modified by the Owner.

END OF SECTION

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.
- 1.2. 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 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's insurance carriers shall be directed to notify the Owner (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 the Owner 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 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. The Owner is the Certificate Holder.
- 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

SECTION 007316
INSURANCE REQUIREMENTS

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 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

SECTION 007316
INSURANCE REQUIREMENTS

full force and effect at all times 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 which afford the coverages in the limits set forth below:

2. LIMITS OF LIABILITY

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.

SECTION 007316
INSURANCE REQUIREMENTS

- D. All such insurance shall be written on an occurrence basis.
- 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 the Owner 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 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 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 the Owner 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 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.

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- 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, may, but shall 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 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 with a certified copy of the renewal or replacement policy unless, the Owner 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.
- 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 (2) name the Trade Contractor, the Owner 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 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, 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, or any of their respective agents, servants and employees. The obligations herein shall apply regardless of whether such

SECTION 007316
INSURANCE REQUIREMENTS

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 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 (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

SECTION 012600
CONTRACT MODIFICATION PROCEDURES

1. GENERAL

- 1.1. General Contractors shall not proceed with any Change in the Work without written direction to proceed by the Owner. Increases to the Contract will not be allowed for any extra Work performed by the General Contractor without this written authorization to perform the Work.
- 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.

2. PROCESS

- 2.1. Change documentation issued by the Architect will in turn be transmitted to the General Contractor for quotation of cost.
- 2.2. The General Contractor shall provide written quotations to the Architect for Changes in the Work within seven (7) days unless otherwise noted in the request for quotation.
- 2.3. Written quotations shall be broken down in detail. Quotation breakdown for Changes in the Work as a minimum shall include actual labor cost (hours x approved direct labor cost), itemized material cost, itemized equipment cost, overhead and profit.
- 2.4. In the event of credits to the Contract for deleted Work which is not quoted by the General Contractor as noted above, the Owner shall calculate a credit cost based on local industry standards for the Work and submit a quotation on behalf of the General Contractor and subsequently issue a deduct Change Order.
- 2.5. Upon acceptance of the proposed cost quotations by the Architect, the Architect will prepare and issue a Change Order.
- 2.6. The Owner or Architect may direct the General Contractor in writing to proceed with the Work at any point in time prior to formal approval of the Change Order. The General Contractor shall promptly proceed with the Work.
- 2.7. The Owner reserves the option to instruct the General 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;

SECTION 012600
CONTRACT MODIFICATION PROCEDURES

- 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 General Contractor's own forces fifteen percent (15%) 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 General Contractor's subcontractors – General Contractor shall add five percent (5%) of the total subcontractor cost as compensation for all other items of cost or expense including administration, overhead, general superintendence, small tools and profit for General Contractors.
- J. For Work performed by General Contractor's subcontractors – subcontractors for their work shall add fifteen percent (15%) 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 General Contractors.

4. LABOR RATES

- 4.1. Labor rates must be submitted on the enclosed labor rate breakdown form prior to award of contract for review by the Owner.

END OF SECTION

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 the Architect:

A. Current Certificate of Insurance with appropriate limits and Owner and Architect 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 the Owner.

C. Performance and payment bond must be submitted to the Owner.

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.

3.4. Payment applications shall be submitted to the Architect.

3.5. The following shall be clearly stated on all Applications for Payment:

A. General Contractor name

B. Address

C. Telephone number

D. Contract Number

3.6. All paperwork associated with each Application for Payment shall be fastened together as one package to avoid loss of items.

END OF SECTION

SECTION 012973
SCHEDULE OF VALUES

1. GENERAL

- 1.1. General Contractor shall submit to the Architect for approval, a Schedule of Values prior to award of Contract.
- 1.2. Upon request the General Contractor shall submit supporting data to substantiate the accuracy of the values provided.
- 1.3. The Schedule of Values as approved by the Architect 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 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. General Contractor shall provide further breakdown as Work progresses if required.
- 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

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 Owner and Architect.
- 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. **PRE-INSTALLATION MEETINGS**

- 3.1. 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.
- 3.2. 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

4. **PROGRESS MEETINGS**

- 4.1. Attend Project Progress and Coordination Meetings held by the Architect.
- 4.2. Progress Meeting Agenda
 - A. **SAFETY**
 1. Observed Violations/Safety Inspections
 2. Housekeeping and clean-up
 3. Temporary barricades, protection and lighting

SECTION 013119
PROJECT MEETINGS

4. Accident Reports
5. Material Safety Data Sheets (MSDS)
6. 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

D. FIELD OBSERVATIONS

1. Problem resolutions
2. Conflict resolutions
3. Quality Control/workmanship
4. Material storage and site staging issues
5. Installation procedures
6. Field condition issues
7. Design issues

E. SCHEDULE

SECTION 013119
PROJECT MEETINGS

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

SECTION 013529
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

1. GENERAL

- 1.1. Dearborn Public Schools 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 the Owner or Architect.

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. The Owner 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 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.
- 2.3. **Designated Safety Representative**

SECTION 013529
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

- A. Trade Contractor shall provide the Owner 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.
- B. 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; and
 - 3. 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 the Owner 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.

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 the Owner 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 Owner, 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.

SECTION 013529
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

- 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, the Owner 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 the Owner 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. The Owner 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 the Owner the violation warrants such action.

2.6. 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.

2.7. 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.

2.8. 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.

2.9. 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.

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TRADE CONTRACTOR HEALTH AND SAFETY PLAN

- 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. EMERGENCY RESPONSE PLAN

3.1. 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;
 - 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 the Owner 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 and provide a copy to the Owner.
 - b. Provide status reports to the Owner as conditions require.

3.2. Emergency Evacuation Plan

- A. Trade Contractor shall 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 (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.

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TRADE CONTRACTOR HEALTH AND SAFETY PLAN

3.3. 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.

4. CRISIS COMMUNICATION PLAN

- 4.1. The Owner will designate a spokesperson to make all public comments during a crisis situation.
- 4.2. 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”.

5. PERSONAL PROTECTIVE EQUIPMENT AND CLOTHING

- 5.1. Personal protective equipment and clothing shall be worn on the project site with exception of construction office areas separated from construction work.
- 5.2. Personal protective equipment shall meet the most stringent standard established by federal, state and local authorities, requirements of the employer.

5.3. 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.
- D. Gloves shall be work at all times on the project site.

5.4. 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.

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TRADE CONTRACTOR HEALTH AND SAFETY PLAN

- G. Clothing imprinted with language or images as determined by the Owner 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.

6. CELL PHONE AND ELECTRONIC USE POLICY

6.1. Cell phone and electronic device 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.
- 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.

6.2. 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.

7. SUBSTANCE ABUSE POLICY

7.1. The Owner 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.

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- B. Person's shall not report for duty or perform work while under the influence of any drug, alcoholic beverage, or intoxicant.

8. SAFE WORK REQUIREMENTS

8.1. 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 licenses by the Department of Labor and the State in which the Work is being performed.

8.2. 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.

8.3. 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.

8.4. 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.

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- 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 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.

8.5. 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

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- 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
- 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.

8.6. 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.

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TRADE CONTRACTOR HEALTH AND SAFETY PLAN

3. All electrical power tools shall be tested for electrical safety prior to use.

8.7. 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;
 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 the Owner a substance inventory list and (SDS) for hazardous chemicals prior to bringing such chemicals to 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.

SECTION 013529
TRADE CONTRACTOR HEALTH AND SAFETY PLAN

8. Notify the Owner and other Trade Contractor in the work area when hazardous chemicals will be in use and potential hazards which may be encountered.

8.8. 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;

8.9. 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.

8.10. 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.

END OF SECTION

SECTION 017123
FIELD ENGINEERING

1. GENERAL

- 1.1. Trade Contractor shall be responsible for all engineering and layout required for performance of its Work.

2. REQUIREMENTS

- 2.1. Confirm accuracy of information indicated on the before commencing layout of the Work.
- 2.2. Discrepancies between the Contract Drawings and existing conditions shall be brought to the attention of the Architect 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.

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.
- 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