



Dunn County Public Safety Center & Courthouse Remodel Front End Documents

Owner

DUNN COUNTY ND
205 OWENS ST
MANNING, ND 58642

Architect

JOHNSON LAFFEN GALLOWAY ARCHITECTS LTD
124 N 3RD ST, STE 300
GRAND FORKS, ND

Contractor

J.E. DUNN CONSTRUCTION COMPANY
766 ELKS DRIVE
DICKINSON, ND 58601



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SECTION 00 21 13
INSTRUCTIONS TO BIDDERS



PART 1 - GENERAL

1.1 SUMMARY

- A. The Project is being constructed through a Construction Manager at Risk delivery method where the Work will be subcontracted and coordinated by the Contractor.
- B. Selected Subcontractors and Suppliers have been invited to submit a Lump Sum Bid for the construction of the Work described in the Bidding Documents.
- C. Bidders are required to study carefully and conform to these instructions in order that their Bid(s) be complete, responsive and acceptable.

1.2 DEFINITIONS

- A. *NOTE: Terms of art and other words not specifically defined in these Instructions to Bidders have the same meaning as those used and/or defined in the Bidding Documents.
- B. Agreement: the form of agreement between Contractor and the Successful Bidder, as defined in the Form of Agreement section below.
- C. Addenda: written or graphic instruments issued by the Architect before the execution of the Subcontract, which instruments modify or interpret the Bidding Documents by addition, deletion, clarification, or correction.
- D. Alternate Bid or Alternate: an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents and the Specifications, is accepted by the Owner.
- E. Architect: the entity identified in the Bidding Documents that has entered into an agreement with the Owner to provide certain design services for the Project. The term "Architect" shall also refer to its sub-consultants.
- F. Base Bid: the amount stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which Work may be added or deleted for amounts stated in Alternate Bids and Unit Prices.
- G. Bid Form: the form upon which a Bid shall be submitted in accordance with the Bidding Documents.
- H. Bid: an offer of a Bidder submitted on a complete and properly executed Bid Form stating the sum(s) for performing the Scope(s) of Work set forth in the Bid Form submitted in accordance with the Bidding Documents.
- I. Bidder: the entity that submits a Bid for the Scope(s) of Work set forth in the Bid Form.
- J. Bidding Documents: consist of: (1) the Bidding Requirements; (2) the Drawings identified on the Invitation to Bid; (3) the Project Manual identified on the Invitation to Bid; (4) any other documents provided to Bidders for bidding purposes; and (5) all Addenda or amendments issued thereto.
- K. Bidding Requirements: consist of: (1) the Front End Document (including the Instruction to Bidders, Bid Form, and sample Agreement); (2) the associated Bid Package(s) (including the Invitation to Bid and Scope(s) of Work); (3) the Architect's Project Manual, to the extent it includes requirements related to bidding; and (4) all Addenda or amendments issued thereto.

- L. Bid Package: a discrete set of Bidding Documents, consisting of one or more Scopes of Work, an Invitation to Bid, and any other documents included or referenced in the Bid Package. Relative to any prior Bid Package, a subsequent Bid Package may include additional or revised Bidding Documents specific to the Bid Package. Contractor may solicit Bids for various portions of the overall Work of the Project through multiple Bid Packages to procure portions of the Work over time rather than bidding the entire Work of the Project at one time.
- M. Combination Bid: an offer of a Bidder submitted on a complete and properly executed Combination Bid Form stating the sum for performing the Scopes of Work set forth in the Combination Bid Form submitted in accordance with the Bidding Documents.
- N. Consultant: the entity that will enter into an agreement with the Contractor to provide professional services on the Project. These Frond End Documents apply to Consultant, to the extent applicable.
- O. Contractor: the entity, identified as the Construction Manager at Risk in the Invitation to Bid, that has entered into an agreement with Owner to provide construction services on the Project.
- P. Scope of Work: the Work described and identified for a specific aspect of the Project.
- Q. Subcontract Documents: For bidding purposes, the Subcontract Documents with respect to the Work of a Subcontractor and the Contract Documents with respect to the Work of a Supplier consist of the form of Agreement (as identified in the Form of Agreement section below), the Prime Contract between Owner and Contractor (to the extent available at the time of Bid), Drawings, Specifications, all Addenda issued prior to the time for receiving Bids, and all other documents identified in the form of Agreement. Upon execution of the Subcontract or M&E Contract, the Subcontract or Contract Documents shall be those set forth in the executed Agreement.

Subcontract Documents: consist of (for bidding purposes): (1) the form of Agreement (as identified in the Form of Agreement section below); (2) the Prime Contract between Owner and Contractor (to the extent available at the time of Bid); (3) Drawings and Specifications as identified in the Bid Package; (4) all Addenda issued before the time for receiving Bids; and (5) all other documents identified in the form of Agreement. Upon execution of the Agreement, the Subcontract Documents shall be those set forth in the executed Agreement. For bidding purposes, the term "Contract Documents" in the form of Agreement between Supplier and Contractor shall have the same meaning as "Subcontract Documents."

- R. Subcontractor: the entity that will enter into an agreement with the Contractor to provide labor, with or without materials or equipment, for a particular Scope of Work.
- S. Successful Bidder: the Bidder to which Contractor, on the basis of the Contractor's evaluation, makes an award.
- T. Supplier: the entity that will enter into an agreement with the Contractor to supply material and/or equipment for the Project. For bidding purposes, the term Supplier shall be replaced with "Subcontractor," unless otherwise noted.
- U. Unit Price: an amount stated in the Bid as a price per unit of measurement for material,

equipment, or labor as described in the Bidding Documents.

F. Work: For bidding purposes, the construction and services required by the Bidding Documents, including all labor, material, equipment, and services provided or to be provided by the Subcontractor or Supplier to fulfill the Subcontractor's or Supplier's obligation under the Subcontract or Contract Documents as defined above. Upon execution of the Subcontract or Materials & Equipment ("M&E") Contract, the Work shall be as defined in the executed Agreement.

1. Furnish: means furnish completely, including all Work and associated costs for: materials, shop drawings, transportation, insurance, field measurements, expediting, shipping, handling, packaging, storage, touch up materials, Owner's manuals, training, and any other accessories required for a complete installation. Shipping methods and delivery dates for furnished items shall be coordinated with the receiver/installer and shall include all reasonable provisions required for unloading, including but not limited to a proper container and lift gate.
2. Install: means install completely, including all Work and associated costs for: receiving, unloading, unpacking, verification of quantity and condition, inventorying, hoisting, rigging, equipment, lifts, storage, hangers, supports, sleeves, coordination, layout, shop drawings, review of shop drawings by others, field measurements, excavation, backfill, dewatering, installation, cutting and patching, firestopping, daily clean up, inspections, documentation, protection of own Work and Work of others, rough-in, testing, as-built drawings, and all other accessories, services and facilities required for a complete installation. Repair or replace items damaged, misplaced, stolen, or otherwise deemed unfit for installation as determined by the Architect after proper inventorying of materials and/or equipment supplied by others.
3. Provide: means furnish and install completely, including all Work and associated costs for: furnishing, installing, materials, labor, equipment, layout, tools, and any other temporary or permanent facilities required to complete the Work.

1.3 THE BIDDING DOCUMENTS

- A. Bidders shall use complete sets of Bidding Documents in preparing Bids. Neither the Owner, the Contractor, nor the Architect shall assume any responsibility for errors, mistakes, misrepresentations, or incomplete bids resulting from the use of incomplete sets of Bidding Documents.
- B. In making copies of the Bidding Documents available, the Owner, Architect and Contractor do so only for the purpose of obtaining Bids on the Scopes of Work and do not confer a license or grant permission to use the Bidding Documents for any other purpose.

1.4 EXAMINATION OF BIDDING DOCUMENTS AND SITE

- A. It is the responsibility of each Bidder, before submitting a Bid, to:
 1. carefully study and compare the Bidding Documents with each other, and with other Work being bid concurrently or presently under construction to the extent that it relates to the Scope of Work for which the Bid is submitted,
 2. visit and examine the Project site to become familiar with local conditions that may effect cost, progress, performance or furnishing of the services or Work;

3. consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the services or Work; and
4. notify the Contractor immediately of all conflicts, errors, inconsistencies or ambiguities discovered by Bidder in the Bidding Documents.

B. Site Information

1. Within the Bidding Documents, there may be reports of explorations and tests of subsurface conditions at or contiguous to the site of the Project (“Geotechnical Reports”). If Geotechnical Reports are available and not included in the Bidding Documents, they will be made available to Bidders upon request. Those bidding on a Scope of Work that may be impacted by subsurface conditions shall obtain and/or review the Geotechnical Reports.
 2. The Bidding Documents may identify reports and/or drawings relating to Asbestos, PCB, Petroleum, Hazardous Waste, Radioactive Material or other hazardous materials (“Hazardous Materials”). Copies of these reports and drawings will be made available to Bidders upon request. Provisions relating to responsibilities for such conditions are set forth in the Subcontract Documents (for Subcontractors) or Contract Documents (for Suppliers).
 3. These reports, drawings and other documents referenced in this section are not part of the Subcontract Documents (for Subcontractors) or Contract Documents (for Suppliers). The Bidder is responsible for any interpretation, extrapolation or conclusion it draws from any technical data or any other data, interpretations, opinions or information contained in such reports or drawings or shown or indicated in other documents related to subsurface conditions or Hazardous Materials.
- C. Upon reasonable notice, Contractor and/or Owner will provide each Bidder access to the site to conduct such examinations, inspections and studies as each Bidder deems necessary for submission of a Bid.

1.5 INTERPRETATIONS AND ADDENDA

- A. All questions regarding the meaning or intent of the Bidding Documents are to be directed to the Contractor who will forward such questions to the Architect, if needed.
- B. Bidders shall promptly notify the Contractor of any ambiguity, inconsistency or error which they discover upon examination of the Bidding Documents, the Project site and the local conditions.
- C. Bidders requiring interpretation, clarification, correction or change of the Bidding Documents shall make a written request which must reach the Contractor within the time set forth in the Invitation to Bid.
- D. Written requests received after the deadline set forth in the Invitation to Bid may not be answered.
- E. Interpretations, clarifications, corrections and changes to the Bidding Documents considered necessary by the Contractor and/or Architect in response to such questions or otherwise will be made by Addenda.
- F. No Addenda will be issued later than the time set forth in the Invitation to Bid except for an Addendum withdrawing the request for Bids or postponing the date for receipt of Bids.

- G. Reasonable efforts will be made to deliver notifications of Addenda to all who are known to have received a complete set of Bidding Documents.
- H. Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.
- I. It is the responsibility of each Bidder to ascertain and confirm, prior to submitting a Bid, that the Bidder has received all Addenda. Bidder shall also acknowledge its receipt of all Addenda in its Bid(s) on the Bid Form. Owner, Contractor, and Architect are not responsible for errors or omissions in Bids from Bidders who have not received all Addenda.
- J. Only interpretations, clarifications, corrections, and changes made by formal written Addenda are binding. Interpretations, clarifications, corrections, and changes to the Bidding Documents made in any other manner are not binding, and Bidders shall not rely upon them.
- K. In the case of an ambiguity, inconsistency or error in Bidding Documents not clarified by Addendum, the higher quality, more expensive option and/or greater quantity of Work shall be provided in accordance with the Contractor's interpretation.
- L. Failure of the Bidder to notify the Contractor of a known ambiguity, inconsistency or error in the Bidding Documents will waive the Bidder's right to seek additional compensation for such ambiguity, inconsistency or error.

1.6 SUBSTITUTIONS

- A. Unless otherwise specifically required, reference in the Specifications to any product, material, equipment, type or form of construction shall establish a minimum standard of quality and shall not be construed as limiting competition.
- B. The products, materials and equipment described in the Bidding Documents establish a standard of required design, spare parts availability, strength, durability, usefulness, serviceability, operating cost, convenience, and for the purpose intended to be met by any proposed substitution.
- C. Reference to standard specifications for basic materials shall not be modified for any substitutions proposed.
- D. No request for substitution will be considered prior to receipt of Bids unless a written request for approval has been received by the Contractor within the time set forth in the Invitation to Bid. Requests for substitution will not be considered when proposed with a Bid.
- E. Requests for substitutions will only be considered under the following procedures:
 - 1. The request is made under the "or approved equal" or the "or approved substitute" provisions of the Bidding Documents.
 - 2. The request is received within the time period set forth in the Invitation to Bid.
 - 3. The request includes the name of the material, product, equipment or system for which it is to be substituted, correlated to Specification section and page, and all basic data and characteristics of the proposed substitute so that a direct comparison may readily be made.
 - 4. The request complies completely with the other requirements for substitutions set forth

in Division 01 of the Specifications.

- F. It is the sole responsibility of the Bidder making the request to submit complete descriptive and technical information necessary for the Architect to evaluate the substitution.
- G. The burden of proof of the merit of the proposed substitution is upon the Bidder making the request. The Architect's decision of approval or disapproval of a proposed substitution shall be final.
- H. If the Architect approves a proposed substitution prior to receipt of Bids, such approval will be set forth by written Addendum. An approval of a request for substitution made in any other manner will not be binding, and Bidders shall not rely upon an approval made in any other manner.
- I. No substitutions will be allowed subsequent to the notice of award to the Bidder unless specifically provided for in the Bidding Documents.

1.7 PRE-BID CONFERENCE

- A. A pre-bid conference will be held at the date, time and location stated in the Invitation to Bid.
- B. Representatives of Owner, Architect and Contractor will be present to discuss the Project and answer questions regarding the Bidding Documents and bidding procedure. Bidders are encouraged to attend and participate in the conference.

1.8 TIME AND PLACE TO RECEIVE BIDS

- A. Bids will be received until the time on the date indicated in the Invitation to Bid or indicated by Addendum. Bids received after this time may not be accepted.
- B. Bids shall be submitted at the place indicated in the Invitation to Bid or indicated by Addendum. Bidders shall assume full responsibility for timely delivery at the location designated for receipt of Bids.
- C. Bids can be submitted as identified in the Invitation to Bid, specifically via e-mail, via Building Connected, or in person at public bid opening.

1.9 THE BID

- A. Bids will be received from Bidders for the Scopes of Work identified in the Bidding Documents. Bids shall include all Work defined within the Scope of Work, including but not limited to the relevant Specification Section(s) and Bidding Documents.
- B. Bids are to include all overhead, profit, labor, applicable taxes, insurance, licenses, permits, tools, equipment, materials, services, labor, supervision and incidentals necessary or required for the completion of the Scopes of Work identified in the Bidding Documents, including costs of complying with the safety requirements included in the Bidding Documents.
- C. No Bidder may submit more than one (1) Bid per Scope of Work. Multiple Bids for the same Scope of Work from an individual or entity under the same or different names will not be considered.
- D. Bids shall include the following documents and attachments:
 - 1. Bid on the Bid Forms provided in the Bidding Documents

2. Bidder's Scope of Work copied from these Bidding Documents.

1.10 BID SECURITY

A. There is not any Bid Security required for the Project.

1.11 PRE-QUALIFICATION OF BIDDERS

- A. All Bidders must be qualified to perform the Work described in the Bidding Documents. All Bidders must demonstrate their ability, experience, technical expertise, efficiency, integrity, reputation, capacity of personnel, and financial resources to properly and timely perform the Work described in the Bidding Documents to be considered a responsible Bidder.
- B. To be qualified to perform the Work described in the Bidding Documents, the Bidder must submit and/or update the necessary information on Contractor's online Subcontractor Management System located at <http://sms.jedunn.com>.
- C. Only invited Bidders that are qualified may Bid the Project. The Contractor or Owner may reject proposals or Bids from non-invited and/or non-qualified firms. Contact Contractor for information regarding qualifying to Bid the Project.

1.12 BIDDER REPRESENTATIONS

- A. Each Bidder, by submitting its Bid, represents that:
1. The Bidder has examined, carefully studied and understands the Bidding Documents, including all Addenda and other related information, and its Bid is made in accordance therewith.
 2. The Bidder has read and understands the Subcontract Documents (for Subcontractors) or Contract Documents (for Suppliers) to the extent that such documentation relates to the Scope of Work for which its Bid is submitted, and for other portions of the Project, if any, being bid concurrently or presently under construction.
 3. The Bidder has visited the site, familiarized itself with the local conditions under which the Work is to be performed and has correlated its observations with the requirements of the proposed Subcontract Documents (for Subcontractors) or Contract Documents (for Suppliers).
 4. The Bidder is familiar with all federal, state and local Laws and Regulations that may affect cost, progress or performance of the Work.
 5. The Bid is based upon materials, equipment and systems required by the Bidding Documents without exception unless otherwise approved.
 6. The Bid(s) have been derived at independently without consultation, communication or agreement as to any matter relating to the Bid(s) with any other Bidder or with any competitor.
 7. The Bidder will not later request, and will not later expect to receive, additional payment for Work related to conditions which could have been determined by examination of the site and the Bidding Documents.
 8. The Bidder will agree to contract under the form of Agreement set forth in Section 00 52 00, including Project-specific modifications, if any, made at a later time, without clarification or modification.

- B. By submitting a Bid, Bidder agrees that any protest, controversy, dispute or claim arising from the Invitation to Bidders, the Bidder's submission of the Bid, the Owner's or Contractor's rejection of any Bid and/or the award of a Subcontract or M&E Contract shall be subject to the same dispute resolution requirements as are set forth in the form of Agreement set forth in Section 00 52 00 applicable to the Scope of Work upon which the Bid is based, which are incorporated into these Instructions to Bidders by this reference.

1.13 MODIFICATION AND WITHDRAWAL OF BIDS

- A. Prior to the time and date for the receipt of Bids, any Bid submitted may be modified or withdrawn by written notice to the party receiving Bids at the place designated for receipt of Bids.
- B. Bids may not be withdrawn, modified or canceled for the period of time set forth in the Invitation to Bid following the time and date for the receipt of Bids.

1.14 REJECTION OF BIDS

- A. The Contractor and/or Owner reserve the right to reject any or all Bids, including, without limitation, the right to reject Bids that are incomplete, irregular, nonconforming, non-responsive, unbalanced, or conditional. An award may be made to other than the low bidder.

1.15 ACCEPTANCE OF BID (AWARD)

- A. It is the intent of the Contractor to award a Subcontract or M&E Contract to the lowest, responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents, subject to Contractor's right to reject bids as stated in these Instructions to Bidders.
- B. In awarding the Subcontract or M&E Contract, the Contractor may take into consideration, among other items, the Bidder's skill, facilities, capacity, experience, responsibility, previous work record and financial standing, the necessity of prompt and efficient completion of Work, and the Bidder's other qualifications. The inability of any Bidder to meet the considerations mentioned above may be cause for rejection of the Bid.
- C. The Contractor and/or Owner may interview any and all Bidders before the Subcontract or M&E Contract is awarded. The interview will enable the Contractor and/or Owner to ask the Bidder questions about materials, labor, duration, Scope of Work, the Subcontract Documents (for Subcontractors) or Contract Documents (for Suppliers) or the Bidder's qualifications and abilities.
- D. The Contractor shall have the right to waive informality or irregularities in a Bid received and to accept the Bid which, in Contractor's judgment, is in the Contractor's best interest.
- E. The Contractor shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and Alternate(s) accepted.
- F. The Successful Bidder will receive written notice of award of the Agreement.
- G. Submittals
 - 1. Successful Bidders shall, within seven (7) calendar days of the Notice of Award, submit the following information to the Contractor:

- a. A designation of the Work to be performed by the Bidder with its own forces.
 - b. The proprietary names and suppliers of principal items or systems of materials and equipment proposed for the Work.
 - c. A list of names of the lower-tier contractors or other persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.
2. Successful Bidders will be required to establish, to the satisfaction of the Contractor and Owner, the reliability and responsibility of the lower-tier contractors and suppliers proposed to furnish and perform the Work described in the Bidding Documents.
 - a. Prior to the Notice to Proceed, the Contractor will notify the Bidder in writing if the Contractor or Owner, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Contractor or Owner has reasonable objections to a proposed person or entity, the Bidder may submit an acceptable substitute person or entity with an adjustment in the Base Bid or Alternate Bid to cover the difference in cost occasioned by such substitution.
 - b. The Contractor may accept the adjusted bid price or disqualify the Bidder.
 3. Persons and entities proposed by the Successful Bidder to whom the Contractor and Owner have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed, except with the written consent.

1.16 SCHEDULE

- A. The Bidder agrees that if awarded the Subcontract or M&E Contract, the Bidder will complete the Work in accordance with the Project Schedule. The Project Schedule has been included in Section 00 31 13.
- B. A detailed Project schedule is available upon request.
- C. The Bidder hereby agrees to commence Work under the Subcontract or M&E Contract within seven (7) calendar days after the date of a "Notice to Proceed," unless otherwise stipulated in that notice.

1.17 BOND REQUIREMENTS

- A. Performance And Payment Bond
 1. The Bidder shall indicate the actual cost to furnish bonds covering the faithful performance of the Subcontract or M&E Contract and payment of all obligations in connection with the same. Bonds shall be issued by a surety company that is rated "A-" or better by A.M. Best Company. The surety shall have a per bond underwriting limit set forth in the most current United States Treasury Circular 570 List that is greater than or equal to the face value of the bond.
 2. Bonds (if required) shall be written on forms included in the Bidding Documents. Bonds shall be written in full amount of the Subcontract or Contract Sum and shall name the Contractor as obligee. The approved bond forms are included in Section 00 61 13.
- B. Contractor will only pay for the actual cost of the bond based upon an invoice from the surety.

1.18 INSURANCE

- A. This Project will have a Controlled Insurance Program ("CIP"), as set forth in Section 00 73 16.
- B. Per the CIP Manual, Bidders that are required to enroll in the CIP shall include in their base Bid the cost of providing the insurance required by the Subcontract and the CIP Manual for enrolled trade partners and exclude costs of onsite General Liability coverage. Bidders that are not required to enroll in the CIP shall include in their base Bid the cost of providing the insurance required by the Subcontract and the CIP Manual for non-enrolled trade partners.

1.19 FORM OF AGREEMENT

- A. The form of Agreement between the Contractor and a Subcontractor for the Work is the Subcontract included in the Bidding Documents. See Section 00 52 00.
- B. The form of Agreement between Contractor and a Supplier to provide materials, goods, or equipment is the Material & Equipment (M&E) Contract (described herein as the "M&E Contract") included in the Bidding Documents. See Section 00 52 00.
- C. The form of Agreement may be modified from the form included to reflect Project-specific provisions required by the Owner or by the final agreement between Owner and Contractor. Otherwise, the form of Agreement shall not be changed from the form that is included in the Bidding Documents. The Bidder shall include in its Bid all costs associated with executing the form of Agreement provided in Section 00 52 00.

1.20 TAX EXEMPTION

- A. The Project is not tax exempt.

1.21 LABOR HARMONY

- A. The Bidder acknowledges that the Contractor is a party to certain collective bargaining agreements with various union crafts, which agreements affect the work of subcontractors while working on this Project. Bidder agrees that, to the extent any such agreement is applicable to the on-site construction work performed by the Bidder on this Project, Bidder shall take all steps necessary to comply with the subcontractor articles or other applicable provisions of the Contractor's collective bargaining agreements. If any portion of the Bidder's Work is further subcontracted, then second tier subcontractors shall be bound by and observe all terms and provisions of such collective bargaining agreements to the same extent as is required of the Bidder.

END OF SECTION

SECTION 00 30 00
SITE ACCESS PLAN



PART 1 - GENERAL

1.1 SUMMARY

- A. Site Access Plan will be issued in Addendum #1.
- B. Bidders acknowledge that the site access plan will be revised during the course of construction to accommodate the Work as it progresses.
- C. Reference Division 01 for other requirements.

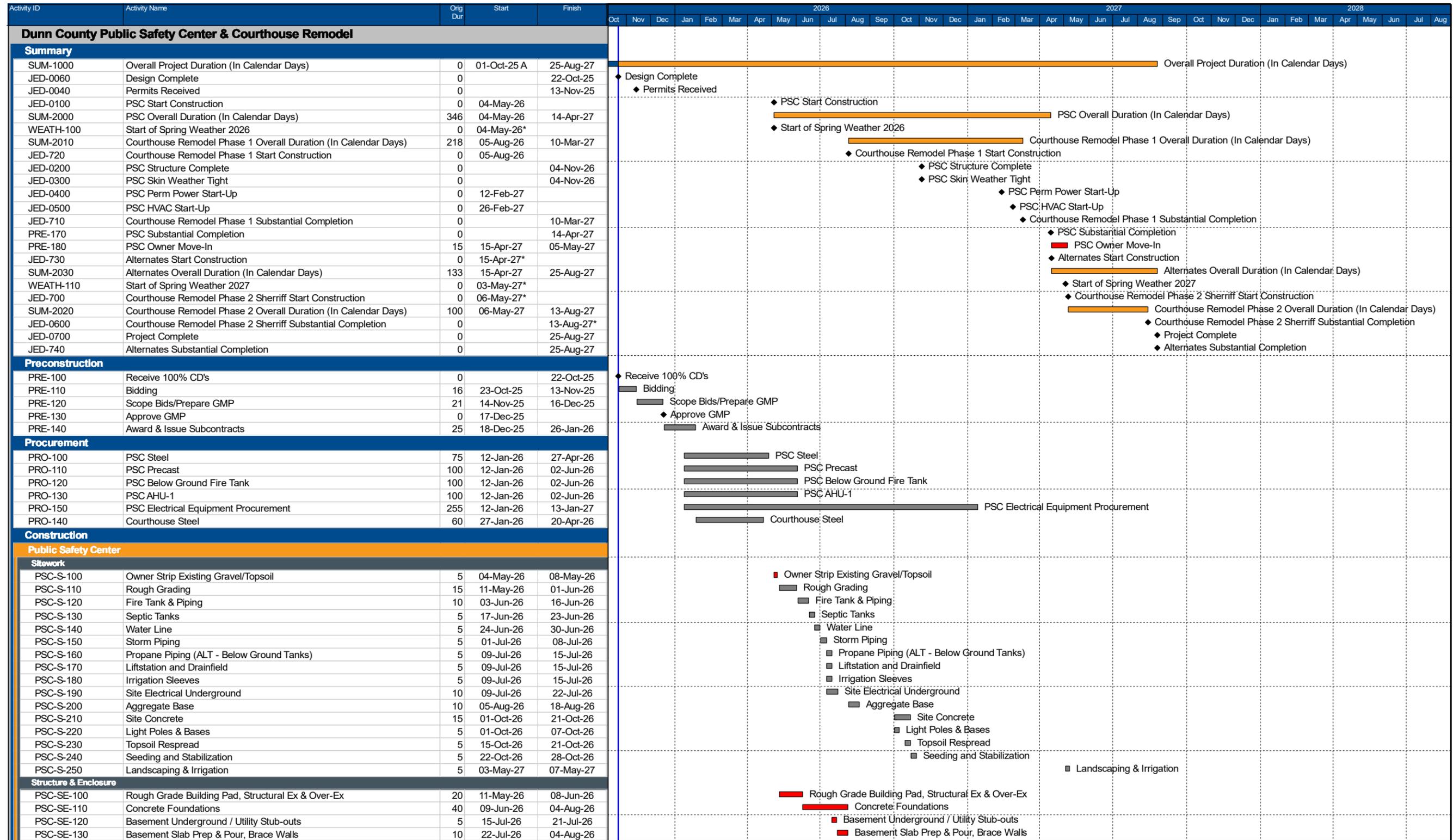
END OF SECTION

PART 1 - GENERAL

1.1 SUMMARY

- A. Bidders recognize that revisions in the planned schedule are inherent in construction. This may result in revisions to the schedule of construction for the Project and the Bidders' Work during the progress of construction.
- B. Bidders acknowledge that Contractor cannot guarantee Bidders, if selected, will be able to start the Work on any particular date or continue without interruption once started. Bidders shall include in their Bid all costs associated with this risk.
- C. Bidders shall include multiple mobilizations as required to execute the Work.

END OF SECTION



Dunn County Public Safety Center Courthouse Remodel
 Run Date: 21-Oct-25 / Data Date: 22-Oct-25

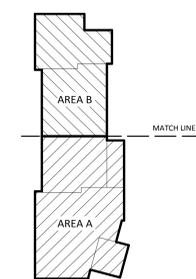


FLOOR PLAN GENERAL NOTES

- A. FOR TYPICAL BARRIER FREE TOILET ROOM TYPES AND ACCESSORIES REQ'TS AND LOCATIONS SEE DWG G120
- B. FOR TYPICAL HOUSEKEEPING CLOSETS ACCESSORIES REQ'TS AND MOUNTING LOCATIONS SEE SHEET G120
- C. ALL PARTITION TYPES ARE "AA" TYPICALLY, UNLESS OTHERWISE NOTED. COORDINATE PARTITION FIRE RATED REQUIREMENTS AS INDICATED ON REFLECTED CEILING PLANS - DRAWING SERIES A700.
- D. TYPICALLY INSTALL SOAP DISPENSERS AND PAPER TOWEL DISPENSER AT ALL SINKS UNLESS NOTED OTHERWISE.
- E. PROVIDE WALL REINFORCEMENT AT WALL MOUNTED SHELVES AND STORAGE UNITS, MARKERBOARDS, BULLETIN BOARDS, TACK BOARDS, TELEVISIONS AND OTHER CONTRACTOR OR OWNER FURNISHED WALL MOUNTED ITEMS, TYP.
- F. FOR ALL CARPET TYPE CHANGES BETWEEN ROOMS, TRANSITION SHALL OCCUR AT CENTERLINE OF DOOR PANEL TYPICALLY 1/2" U.N.D.
- G. COORDINATE DIMENSIONS W/ ASTERISK (IE - *X'-X") W/ EQUIPMENT VENDER. PROVIDE BULLNOSE ON ALL CMU OUTSIDE CORNERS - TYPICAL.
- H. ALL DIMENSIONS ARE TO FACE OF GYPSUM BOARD OR MASONRY UNLESS OTHERWISE NOTED.
- I. COORDINATE ALL FLOOR OPENING DIMENSIONS AND CLEARANCES FOR DUCTWORK W/ MECHANICAL CONTRACTOR - TYPICAL.

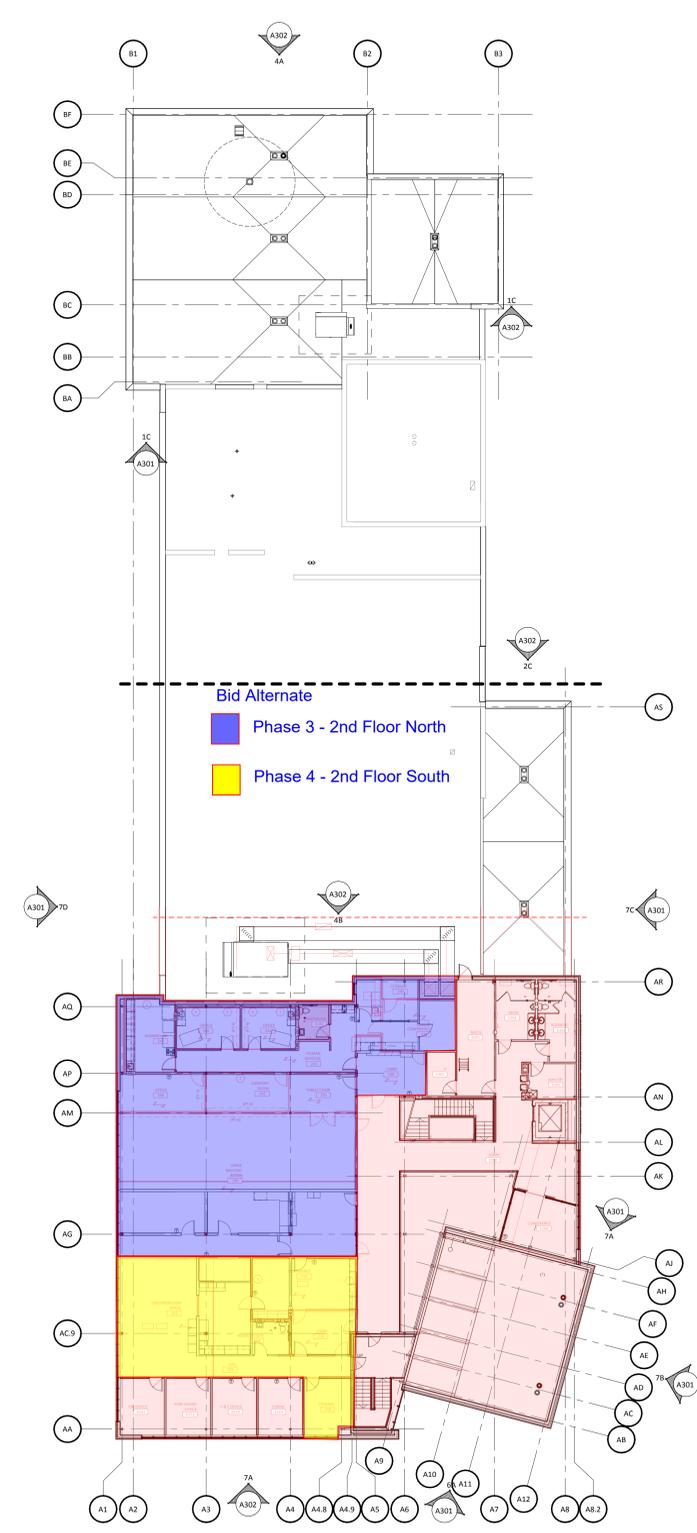
- Phase 1A - Courtroom Addition
- Phase 1B - Courtroom Remodel
- Phase 2A - Sheriff Remodel
- Phase 2B - Corridor & Clerk of Courts Window

KEY PLAN

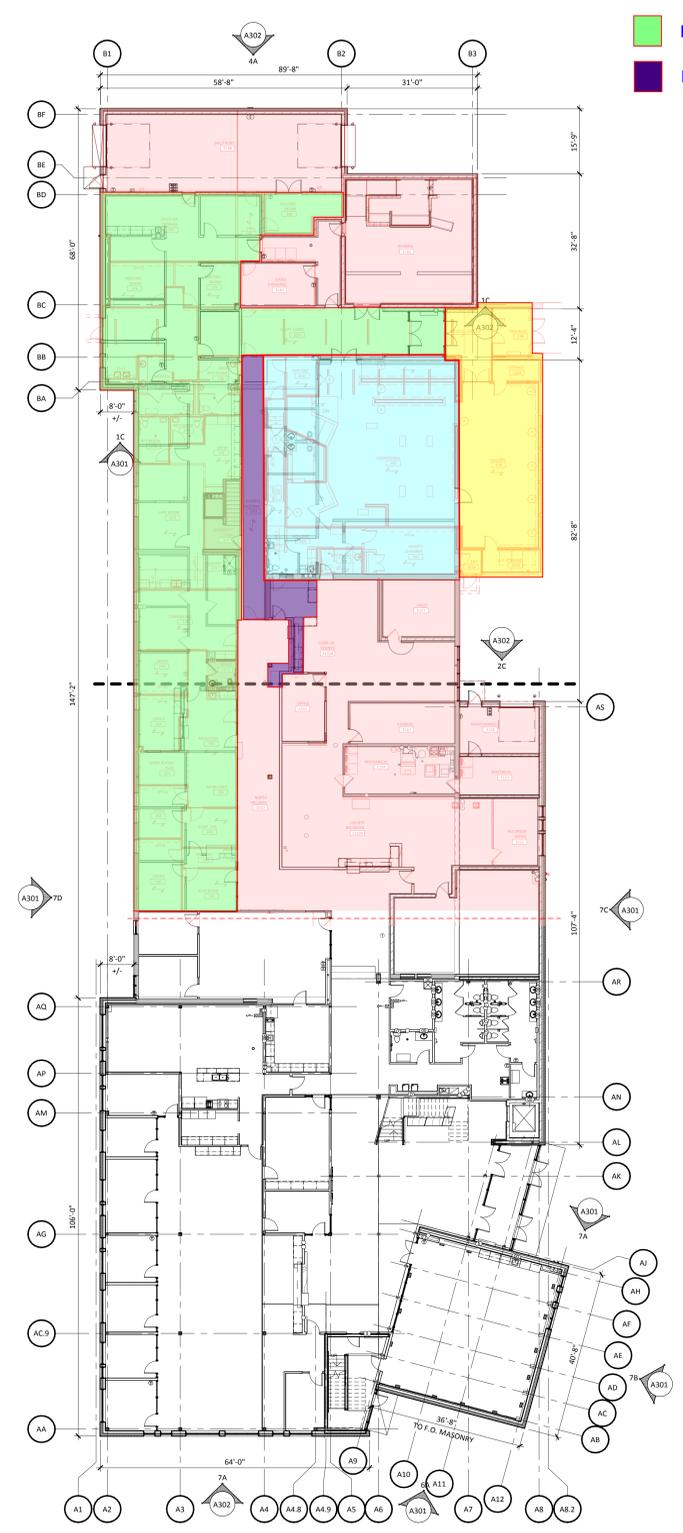


I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.
 WIT: My hand and seal this 06/05/2017 DATE.
 JLG architects
 103 1st Ave W
 Dickinson, ND 58601
 phone: 701.776.1314 fax
 www.jlgarchitects.com
 copyright © 2017

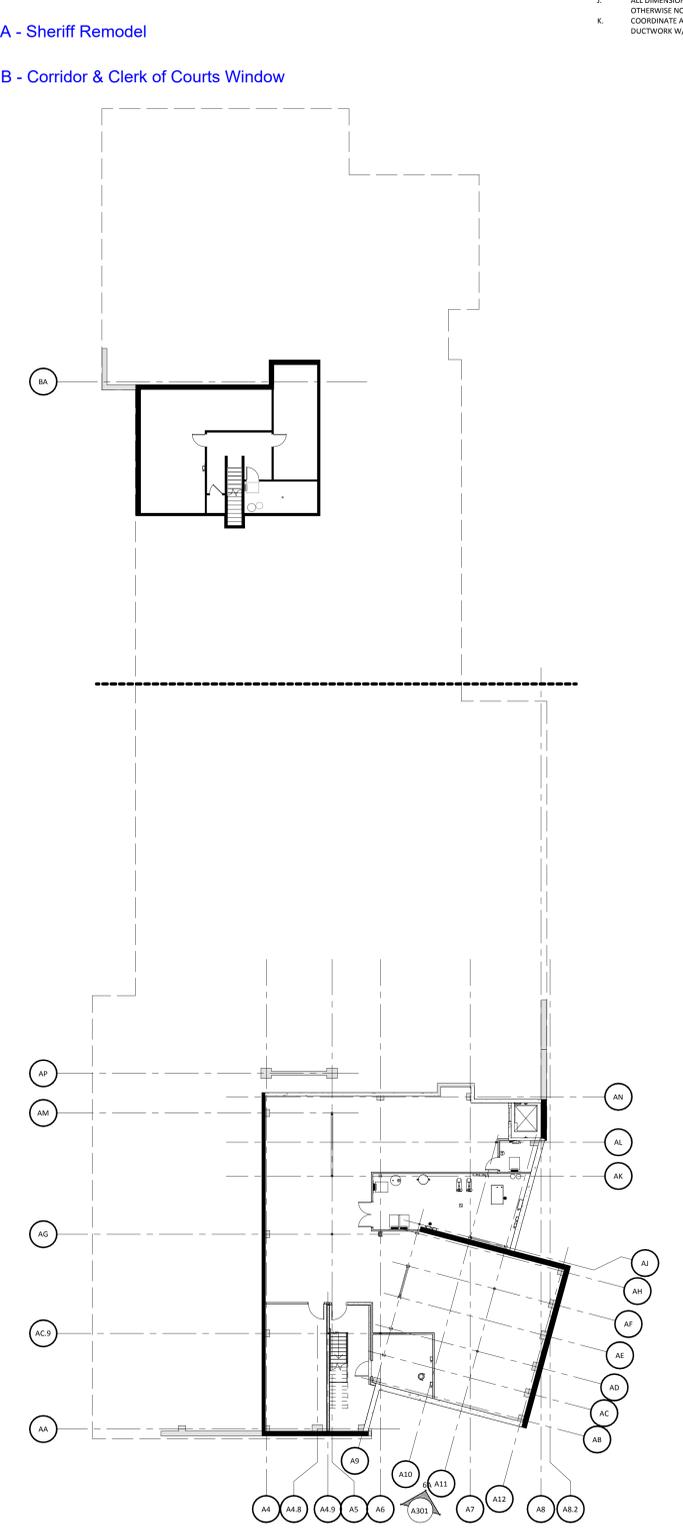
REVISION SCHEDULE		
NO.	DESCRIPTION	DATE



7A A200 OVERALL SECOND FLOOR PLAN
 SCALE: 1/16" = 1'-0"



5A A200 OVERALL FIRST FLOOR PLAN
 SCALE: 1/16" = 1'-0"



3A A200 OVERALL BASEMENT FLOOR PLAN
 SCALE: 1/16" = 1'-0"

DUNN COUNTY COURTHOUSE
 MANNING, ND

DATE	06/05/17
PROJECT	CONSTRUCTION DOCUMENTS
PROJECT NO.	16128
SHEET	A200
OVERALL FLOOR PLANS	

**SECTION 00 41 00.10
 INDIVIDUAL SCOPE(S) BID FORM**



Owner: **DUNN COUNTY ND**

Project: **Dunn County Public Safety Center & Courthouse Remodel** J.E. Dunn Project No.: **25039000**

Contractor: **J.E. Dunn Construction Company** Attn: **[Bid Taker]**

Name of Bidder: _____

Address of Bidder: _____ Phone: _____

Contact Name: _____ Email: _____

BASE BID INDIVIDUAL SCOPES OF WORK

Directions: For individual Scopes of Work, list the Scope of Work number, the Scope of Work description and the Base Bid amount both in words and in figures for each Scope. These Base Bids are considered stand-alone Bids and could be awarded individually or in any combination.

Scope of Work #:	Description:	\$
Scope of Work #:	Description:	\$
Base Bid (words):		
Scope of Work #:	Description:	\$
Base Bid (words):		
Scope of Work #:	Description:	\$
Base Bid (words):		
Scope of Work #:	Description:	\$
Base Bid (words):		

Scope of work #:	Description:	\$
Base Bid (words):		

Bid Proposal Amounts:

Bid Proposal Amounts:

The undersigned, having examined the Bidding Documents and the site of the proposed Work and being familiar with all the conditions affecting the construction of the Project, including the availability of labor, equipment, and materials, hereby proposes and agrees to provide and furnish all labor, material, equipment, supervision, and other items necessary to perform and complete, in a workmanlike manner, all Work required by the Bidding Documents, at the prices stated below. Stated sums include fees, insurance, payroll taxes, materials, labor, and all charges that may be levied. This Bid also includes all applicable taxes, including sales tax, unless otherwise stated.

With respect to the Bid amount, the amount shall be shown in both words and figures. In the case of discrepancy between the words and the figures, the words shall govern.

Alternates:

Bidder shall identify the (1) Scope of Work #/Name, (2) Alternate #/Description, (3) Bid Amount and if the Alternate value is an (4) ADD or a DEDUCT to the Base Bid for the applicable Scope of Work.

Scope # & Description	Alternate # & Description	Amount (figures)	ADD or DEDUCT

Unit Prices:

Bidder shall identify the Scope of Work No/Name, Unit Price Description, Amount for the ADD and DEDUCT to the Base Bid for the applicable Scope of Work.

Scope # & Description	Unit Price Description	Amount / Unit ADD	Amount / Unit DEDUCT

Addenda:

The Bidder hereby acknowledges receipt and inclusion in the Bid Proposal the following addendum (number and date):

Addendum No. ____ Dated: _____ Addendum No. ____ Dated: _____
 Addendum No. ____ Dated: _____ Addendum No. ____ Dated: _____
 Addendum No. ____ Dated: _____ Addendum No. ____ Dated: _____

Changes in the Work:

Changes in the Work shall be administered per the executed agreement between the Bidder and the Contractor. The fee limits stated in the Bidding Documents shall be used for pricing of additions and deletions to the Work.

Performance and Payment Bond Cost (not to be included in Base Bid amount):
 \$ _____.

If required to provide performance and payment bonds, Contractor will pay only Bidder’s actual costs without markup. Therefore, provide the Performance and Payment Bond Cost based upon actual cost from the Bidder’s surety with no markup. Bonds shall be written on the forms included in the Bidding Documents.

Time of Commencement, Completion and Damages:

The Bidder agrees that if awarded a contract, Bidder will have Bidder’s Work ready for either the follow-on contractor’s work or the completion of Contractor’s Work in accordance with the Project schedule. The Bidder agrees to commence work under the contract awarded to Bidder within seven (7) calendar days after the date of a “Notice to Proceed,” unless otherwise stipulated in that notice.

Time is expressly declared to be of the essence in completion of the Work covered by this Bid, and the Bidder shall be liable for damages for delay in completion of Work.

General Agreements:

The Bidder agrees that Bidder has had an opportunity to examine the site of the Work and has examined the Bidding Documents, and that Bidder has carefully prepared Bidder’s Bid upon the basis thereof and that Bidder has carefully examined and checked this Bid and the materials,

equipment, and labor required thereunder, the cost thereof, and its figures therefore, and hereby states that the amount or amounts set forth in this Bid Proposal Form

The Bidder acknowledges that the Contractor reserves the right to waive informalities and to reject any or all bids.

The Bidder agrees that this Bid shall not be withdrawn or altered for a period of Forty-Five (45) calendar days after the last date scheduled for the submission of bids.

By signing this Bid, Bidder certifies that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

The Bidder acknowledges that this Bid Proposal Form is required to be executed by an authorized officer of Bidder's company. Bidder further acknowledges that it is expressly reasonable for Contractor to rely on representations set forth in this Bid Proposal Form and the apparent authority of the individual executing it on behalf of the Bidder to bind the Bidder to the obligations herein.

By signing below, Bidder agrees to contract under the Subcontract Documents (for Subcontractors) or Contract Documents (for Suppliers as provided (including Project-specific modifications, if any, made at a later time) without clarification or modification.

The undersigned Bidder agrees that, when these requirements have been completed, it will execute an agreement with the Contractor on the Subcontract or the M&E Contract exhibited in the Project Manual without modification.

DATED _____ DAY OF _____, 20 _____
THIS _____

Signature of Authorized Officer: _____

Printed Name of Authorized Officer: _____

State of: _____ County of: _____

Attachments:

Contractor's Scope(s) of Work

END OF SECTION

With respect to the Bid amount, the amount shall be shown in both words and figures. In the case of discrepancy between the words and the figures, the words shall govern.

Alternates:

Bidder shall identify: (1) the Alternate No/Description; (2) the Bid Amount; and (3) if the Alternate value is an ADD or a DEDUCT to the Base Bid for the applicable Scope of Work.

If the Alternate Bid is for a Combination Bid, insert “Combination Alternate” under “Scope # & Description” followed by the remaining information.

Scope # and Description	Alternate # & Description	Amount (figures)	ADD or DEDUCT
Combination			

Unit Prices:

Bidder shall identify the Scope of Work Number or Name, Unit Price Description, and Amount for the ADD and DEDUCT to the Base Bid for the applicable Scope of Work.

Scope # & Description	Unit Price Description	Amount / Unit ADD	Amount / Unit DEDUCT

Addenda:

The Bidder hereby acknowledges receipt and inclusion in the Bid Proposal the following

addendum (number and date):

Addendum No. _____	Dated: _____	Addendum No. _____	Dated: _____
Addendum No. _____	Dated: _____	Addendum No. _____	Dated: _____
Addendum No. _____	Dated: _____	Addendum No. _____	Dated: _____

Changes in the Work:

Changes in the Work shall be administered per the executed agreement between the Bidder and the Contractor. The fee limits stated in the Bidding Documents shall be used for pricing of additions and deletions to the Work.

Performance and Payment Bond Cost: (not to be included in Base Bid amount)

\$ _____

If required to provide performance and payment bonds, Contractor will pay only Bidder’s actual costs without markup. Therefore, provide the Performance and Payment Bond Cost based upon actual cost from the Bidder’s surety with no markup. Bonds shall be written on the forms included in the Bidding Documents.

Time of Commencement, Completion and Damages:

The Bidder agrees that if awarded a contract, Bidder will have Bidder’s Work ready for either the follow-on contractor’s work or the completion of Contractor’s Work in accordance with the Project schedule. The Bidder agrees to commence Work under the contract awarded to Bidder within seven (7) calendar days after the date of a “Notice to Proceed,” unless otherwise stipulated in that notice.

Time is expressly declared to be of the essence in completion of the Work covered by this Bid, and the Bidder shall be liable for damages for delay in completion of Work.

General Agreements:

The Bidder agrees that Bidder has had an opportunity to examine the site of the Work and has examined the Bidding Documents, that Bidder has carefully prepared Bidder’s Bid upon the basis thereof, and that Bidder has carefully examined and checked this Bid and the materials, equipment, and labor required thereunder, the cost thereof, and its figures therefore, and hereby states that the amount or amounts set forth in this Bid Proposal Form is true and correct.

The Bidder acknowledges that the Contractor reserves the right to waive informalities and to reject any or all bids.

The Bidder agrees that this Bid shall not be withdrawn or altered for a period of Forty-Five (45) calendar days after the last date scheduled for the submission of bids.

By signing this Bid, Bidder certifies that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

The Bidder acknowledges that this Bid Proposal Form is required to be executed by an authorized

officer of Bidder's company. Bidder further acknowledges that it is expressly reasonable for Contractor to rely on representations set forth in this Bid Proposal Form and the apparent authority of the individual executing it on behalf of the Bidder to bind the Bidder to the obligations herein.

By signing below, Bidder agrees to contract under the Subcontract Documents (for Subcontractors) or Contract Documents (for Suppliers) as provided (including Project-specific modifications, if any, made at a later time) without clarification or modification.

The undersigned Bidder agrees that, when these requirements have been completed, it will execute an agreement with the Contractor on the Subcontract or the M&E Contract exhibited in the Project Manual without modification.

DATED _____ DAY _____, 20 _____
THIS _____ OF _____

Signature of Authorized Officer: _____

Printed Name of Authorized Officer: _____

State of: _____ County of: _____

Attachments:

Contractor's Scope(s) of Work

END OF SECTION

SECTION 00 52 00.10
CONTRACT BETWEEN CONTRACTOR AND
SUBCONTRACTOR



PART 1 - GENERAL

1.1 SUMMARY

- A. The form of Agreement between the Contractor and a Subcontractor for the Work is the Subcontract included in this Section 00 52 00.10.

END OF SECTION

Project No. _____

SUBCONTRACT

PJD

This Subcontract, dated _____, is made by and between:

The Contractor: J.E. Dunn Construction Company
766 Elks Drive, Suite B
Dickinson, North Dakota 58601

And Subcontractor:

For the Project: Dunn County Building and Improvements

The Owner of the Project is: Dunn County, North Dakota
205 Owens Street
Manning, North Dakota 58642

The Architect for the Project is: JLG Architects
416 E. Main Avenue
Bismarck, North Dakota 58501

Contractor and Subcontractor may be collectively referred to in this Subcontract as the "Parties." The Parties agree to the terms and conditions as follows:

Article I. SAFETY

Section 1.01 The Subcontractor shall take reasonable safety precautions with respect to performance of the Work, shall comply with safety measures initiated by the Contractor, including Contractor's Safety and Health Program that can be found at http://sms.jedunn.com/safety_program (which is incorporated in this Subcontract by this reference), and with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities for the safety of persons and property in accordance with the requirements of the Prime Contract. If required, Subcontractor shall prepare a written site-specific safety plan for the Project prior to commencing the Work. Subcontractor shall report to Contractor within the time required by Contractor's Safety and Health Program any injury to an employee or agent of Subcontractor which occurred at the site.

Section 1.02 Subcontractor agrees to comply with all laws, regulations and codes concerning safety as shall be applicable to the Work and to the safety standards established during the progress of the Work by Contractor. When so ordered, Subcontractor agrees to stop any part of the Work which Contractor deems unsafe until corrective measures satisfactory to Contractor have been taken, and further agrees to make no claim for damages growing out of such stoppages. Should Subcontractor neglect to adopt such corrective measures, Contractor may perform them and deduct the cost from payments due or to become due Subcontractor. Failure on the part of Contractor to stop unsafe practices shall, in no way, relieve Subcontractor of its responsibilities.

Article II. SUBCONTRACT DOCUMENTS

Section 2.01 The Subcontract Documents are enumerated below:

- (a) This Subcontract and all Exhibits attached to this Subcontract (collectively, the “Subcontract”):
 - (i) Exhibit A – Subcontract Documents
 - (ii) Exhibit B – Scope of Work and Subcontract Sum
 - (iii) Exhibit C – Subcontractor Insurance Requirements
 - (iv) Exhibit D – Owner’s Tax Exemption, if any
 - (v) Exhibit E – General Requirements
 - (vi) Exhibit F – Supplemental Conditions
- (b) Modifications to the Subcontract Documents executed by Contractor and Subcontractor after this Subcontract is signed; and
- (c) The Prime Contract, consisting of the contract between the Owner and the Contractor and the other Contract Documents enumerated in or attached to the Prime Contract, as modified from time to time.

Section 2.02 The Subcontract Documents are incorporated by reference into this Subcontract as if set forth verbatim at this point.

Section 2.03 The Subcontract may be amended only by written Modification signed by both Parties.

Section 2.04 Unless defined differently in the Prime Contract (in which case, the Prime Contract definition controls), a Modification is a written amendment to this Subcontract signed by both Parties, including a Change Order. A Field Work Directive signed by Contractor shall also constitute a Modification.

Article III. MUTUAL OBLIGATIONS

Section 3.01 Contractor and Subcontractor are mutually bound by the terms of this Subcontract. The Prime Contract governs this Subcontract to the extent the terms of the Prime Contract apply to Subcontractor or the Work of this Subcontract, and to that extent Contractor assumes toward Subcontractor all of the obligations and responsibilities that Owner, under the Prime Contract, assumes toward the Contractor under the Prime Contract, and Subcontractor assumes toward Contractor all obligations and responsibilities that Contractor assumes toward Owner under the Prime Contract. Contractor shall have the benefit of all rights, remedies and redress against Subcontractor that Owner has against Contractor under the Prime Contract, and the Subcontractor shall have the benefit of all rights, remedies and redress against Contractor that Contractor has against Owner under the Prime Contract. This Subcontract shall prevail in the event of any conflict between a provision of this Subcontract and a provision of the Prime Contract.

Section 3.02 By signing this Subcontract, Subcontractor agrees and acknowledges that it has either obtained or was provided with ample opportunity to obtain a copy of the Prime Contract (excluding proprietary and confidential information) for review prior to executing this Subcontract. Subcontractor acknowledges that although certain provisions of the Prime Contract applicable to Subcontractor may be repeated in this Subcontract, such repetition is for Subcontractor’s convenience and Subcontractor is bound by all terms of the Prime Contract applicable to Subcontractor and the Work of this Subcontract whether or not such terms are repeated in this Subcontract. Subcontractor’s failure, if any, to obtain a copy of the Prime Contract shall not relieve Subcontractor of its obligations under the Prime Contract.

Article IV. SUBCONTRACT SUM AND SCOPE OF WORK

Section 4.01 Subcontractor shall execute the Work described in Exhibit B (the “Work”) in strict accordance with all Subcontract Documents. The Work includes all labor, materials, equipment, services and other items required by the Subcontract Documents or reasonably inferable from the Subcontract Documents in order to complete the Work, except to the extent specifically indicated in the Subcontract Documents to be the responsibility of others.

Section 4.02 In consideration of proper and timely performance of the Work, Contractor shall pay the Subcontractor the Subcontract Sum set forth in Exhibit B, which sum includes all applicable taxes. The Subcontract Sum may be adjusted in accordance with the Subcontract Documents. Any allowances and alternates included in the Subcontract Sum shall be identified in Exhibit B, along with any unit pricing agreed upon by the Parties.

Article V. PAYMENT

Section 5.01 As a condition precedent to payment, Subcontractor shall provide Contractor with a schedule of values satisfactory to Contractor not more than fifteen (15) days from the date Subcontractor executes this Subcontract. The schedule of values shall allocate the entire Subcontract Sum among the various portions of the Work, and be prepared in such form and supported by such data as to substantiate its accuracy as Contractor may require. Each application for payment shall include this schedule of values, which schedule shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the application for payment for payment. If the Subcontractor is obligated to provide

design services in connection with the Work, the schedule of values shall show Subcontractor's design professional's fee and expenses as a separate line item.

Section 5.02 Based upon applications for payment submitted to Contractor by Subcontractor, the Contractor shall make progress payments to Subcontractor on account of the Subcontract Sum as provided below and elsewhere in the Subcontract Documents. The period covered by the application for payment shall be one calendar month. Contractor shall pay Subcontractor each progress payment no later than five (5) business days after Contractor receives payment from Owner.

Section 5.03 Subcontractor shall submit an application for payment to Contractor each month, at least five (5) business days before the date the Prime Contract requires that Contractor submit Contractor's application for payment to the Owner. A timely submitted application for payment shall be included in the next application for payment which Contractor is entitled to submit to the Owner. If Subcontractor's application for payment is received after the deadline described above, the Work covered by Subcontractor's application for payment shall be included by Contractor in the following month's application for payment to Owner.

Section 5.04 The Subcontractor shall pay for all materials and equipment used in connection with the performance of this Subcontract through the period covered by previous payments received from the Contractor or in accordance with the terms of such purchase agreements entered into by the Subcontractor, whichever is earlier, and shall pay for labor as incurred. As a condition precedent to payment, Subcontractor shall provide waivers and affidavits with each application for payment for itself and its subcontractors and suppliers in the form included in the Subcontract Documents. Subcontractor shall not be entitled to any payments until this Subcontract is executed by Contractor and Subcontractor, and all documents and information required by the Subcontract Documents, including properly prepared applications for payment, have been submitted.

Section 5.05 The amount of each progress payment shall be calculated as follows:

- (a) Take that portion of the Subcontract Sum properly allocable to completed Work;
- (b) Add, to the extent permitted by the Prime Contract, that portion of the Subcontract Sum properly allocable to materials and equipment delivered and suitably stored at the site by the Subcontractor for subsequent incorporation in the Subcontractor's Work or, if approved by the Contractor, suitably stored off the site at a location agreed upon in writing, less the same percentage retainage required by the Prime Contract to be applied to such materials and equipment in the Contractor's application for payment;
- (c) Subtract retainage in a percentage equal to the percentage of retainage withheld by Owner from Contractor under the Prime Contract on account of the Work of this Subcontract;
- (d) Subtract the aggregate of previous payments made by the Contractor; and
- (e) Subtract amounts, if any, that are related to any Work for which the Architect, the Owner, and/or Contractor has withheld or nullified, in whole or in part, a certificate of payment for a cause that is the fault of Subcontractor.

Section 5.06 Retainage shall be withheld until five (5) business days after Contractor has received payment of retainage from the Owner.

Section 5.07 Contractor is authorized to deduct from and offset against any and all payments or amounts otherwise due Subcontractor under this Subcontract or any other agreement between Contractor and Subcontractor an amount equal to any and all sums or obligations owed by Subcontractor to Contractor, including but not limited to any costs incurred by Contractor to complete any work that Subcontractor was obligated to perform, and any and all claims, liquidated or unliquidated, by Contractor against Subcontractor, arising under this Subcontract or under any other agreement between the Parties.

Section 5.08 Final payment, constituting the entire unpaid balance of the Subcontract Sum, shall be made by Contractor to Subcontractor when: (1) the Subcontractor's Work is fully performed in accordance with the requirements of the Subcontract Documents; (2) Contractor has received payment from the Owner for the Subcontractor's Work; and (3) Subcontractor has fully complied with any other requirements of the Subcontract Documents.

Section 5.09 Before issuance of the final payment, Subcontractor, if required, shall submit evidence satisfactory to Contractor that all payrolls, bills for materials and equipment, and all known indebtedness connected with the Subcontractor's Work have been satisfied. As a condition of final payment, Subcontractor shall furnish waivers and affidavits with the final pay application for itself and its subcontractors and suppliers in the form included in the Subcontract Documents. Acceptance of final payment by Subcontractor shall constitute a waiver of claims by Subcontractor.

Article VI. SUBCONTRACT TIME

Section 6.01 The Subcontract Time is the period of time, including authorized adjustments, allotted in the schedule of construction developed by the Contractor (the "Project Schedule") for completion of the Work. The Work of this Subcontract shall be commenced and completed pursuant to the Project Schedule as may be amended from time to time.

Section 6.02 Time is of the essence of this Subcontract.

Section 6.03 Subcontractor recognizes that revisions in the planned schedule are inherent in the nature of construction. This may result in revisions to Contractor's schedule of the Work during the progress of construction. Subcontractor agrees that Contractor cannot guarantee Subcontractor will be able to start Work on any particular date or continue without interruption once started. Contractor will only be responsible for changes to the Subcontract Time within Contractor's control which cause Subcontractor unreasonable delay in the performance of critical-path Work, provided Subcontractor gives immediate written notice of the delay to Contractor. No extension of time granted the Contractor by the Owner shall accrue to the benefit of the Subcontractor unless the critical path of the Subcontractor's Work has actually been delayed, an extension of time is allowable under the Subcontract, and such extension of time directly relates to the Subcontractor's Work as solely determined by Contractor and is specifically agreed to in writing.

Section 6.04 Subcontractor shall cooperate with Contractor in the preparation of the Project Schedule. Subcontractor shall have its superintendent(s) and/or foreman attend scheduled coordination and planning meetings held by Contractor, at which time Subcontractor shall submit, for coordination and approval, its proposed daily work schedule for the next period as required by Contractor. Failure of the Subcontractor to attend regularly scheduled meetings will not relieve Subcontractor of the responsibility to perform all Work and comply with all instructions given during the meeting. Interferences, delays, hindrances, and costs, including, but not limited to any loss of productivity, due to Subcontractor's failure to attend or participate in coordination and planning meetings or due to lack of coordination shall be the sole responsibility of Subcontractor, at no cost or impact to the Contractor or Owner. Further, Subcontractor shall notify Contractor in writing, within seven (7) days of the date Contractor distributes any revised Project Schedule (not including look-ahead schedules, fragnets, daily work schedules, or similar sections of the overall Project Schedule), of any issues, complications or difficulties resulting from such schedule update. In the absence of such written notice, Subcontractor shall be conclusively presumed to have agreed to and accepted any such updated schedule.

Section 6.05 If Subcontractor delays the progress of the Work, Subcontractor shall, at its own cost and expense, work such overtime and provide such additional labor as may be necessary to avoid delay in the completion of the Work.

Article VII. CHANGES

Section 7.01 Contractor reserves the right, from time to time, whether the Work or any part of the Work shall or shall not have been completed, to make changes, additions and/or omissions in the Work as it may deem necessary, upon written order to Subcontractor. No changes shall be made in the Work except upon the written order of Contractor. Subcontractor shall not be entitled to receive, and shall not claim, compensation for any extra Work unless Contractor issues a written order for such Work to Subcontractor, as no claims shall be recognized based upon any verbal orders.

Section 7.02 If Subcontractor intends to make a claim for an increase in the Subcontract Sum or the Subcontract Time for any reason, including in connection with a written order from Contractor for a change, addition or omission in the Work, Subcontractor shall give Contractor written notice of such claim within five (5) business days of the occurrence of the event giving rise to the claim. In the case of a claim made in response to a written order, Subcontractor shall give the Contractor written notice of such claim within five (5) business days of the date Subcontractor receives the order. Subcontractor's written notice shall state the basis of the claim and, to the best of Subcontractor's ability based on then-available information, the amount and/or duration of the claim. A claim which will affect or become part of a claim which Contractor is required to make under the Prime Contract within a specified time period or in a specified manner shall be made in the manner required by the Prime Contract at least two (2) business days prior to the date Contractor is required by the Prime Contract to submit such claim to Owner (but no later than five (5) business days after the occurrence of the event causing the claim). Subcontractor shall provide Contractor with all documentation and information necessary to prove and substantiate Subcontractor's claim no later than the earlier of: (a) at least two (2) business days prior to the date required by the Prime Contract; or (b) the thirtieth (30th) day after the occurrence of the event causing the claim. For any claim which will affect or become part of a claim which Contractor is required to make under the Prime Contract, Subcontractor's failure to make a timely claim shall bind Subcontractor to the same consequences as those to which Contractor is bound.

Section 7.03 An agreement on any Change Order between Contractor and Subcontractor shall constitute a final settlement of all matters relating to the change in the Work which is the subject of the Change Order, including any and all adjustments to the Subcontract Time and Subcontract Sum.

Section 7.04 In the absence of total agreement on the terms of a Change Order, Contractor may direct changes in the Work by issuing a Field Work Directive. A Field Work Directive is a written order signed by the Contractor directing a change in the Work prior to agreement on the adjustment, if any, in the Subcontract Sum. Upon receipt of a Field Work Directive signed by Contractor, Subcontractor shall promptly proceed with the change in the Work while pricing the change in the Work.

Article VIII. EXECUTION AND PROGRESS OF THE WORK

Section 8.01 Subcontractor shall enter into written agreements with any lower-tier subcontractor(s) performing portions of the Work by which the Subcontractor and the lower-tier subcontractor(s) are mutually bound by this Subcontract, to the extent of the Work to be performed by the lower-tier subcontractor(s), assuming toward each other all obligations and responsibilities that the Contractor and Subcontractor assume toward each other and having the benefit of all rights, remedies and redress each against the other that the Contractor and Subcontractor have by virtue of the provisions of this Subcontract.

Section 8.02 Subcontractor and its lower-tier subcontractors shall comply with all General Requirements set forth in Exhibit E.

Section 8.03 To promote the safety, efficiency and quality of the Work of this Subcontract, Subcontractor shall assign a full-time on-site supervisor to the Project who is able to read, write and speak English fluently in order to communicate with Contractor's personnel and the supervisory personnel of other trades. Subcontractor shall not assign to or retain at the Project any supervisor or worker deemed objectionable by Contractor. Subcontractor shall remove and replace any supervisor or worker deemed objectionable by Contractor promptly upon Contractor's request.

Section 8.04 Subcontractor shall obtain and pay for all necessary permits and licenses pertaining to the Work and shall comply with all Federal, State, municipal and local laws, ordinances, codes, rules, regulations, standards, orders, notices and requirements, including, but not limited to, those relating to safety, discrimination in employment, immigration, fair employment practices, equal employment opportunity, or environmental regulation whether or not provided for by the Subcontract Documents and without additional charge or expense to Contractor. Subcontractor shall also be responsible for and correct, at its own cost and expense, any violations of the above-described permits, licenses, or legal requirements resulting from or in connection with the performance of the Work. Subcontractor shall at any time upon demand furnish such proof as Contractor may require showing such compliance and the correction of such violations. Subcontractor agrees to save harmless and indemnify Contractor from and against any and all loss, injury, claims, actions, proceedings, liability, damages, fines, penalties, costs and expenses, including attorney's fees and other legal fees and disbursements, caused or occasioned directly or indirectly by Subcontractor's failure to comply with any of said laws, ordinances, rules, regulations, standards, orders, notices or requirements or to correct such violations resulting from or in connection with the performance of the Work. Subcontractor shall provide a copy of all permits for the Work to Contractor.

Section 8.05 Subcontractor shall take necessary precautions to protect the work of Contractor and other subcontractors from damage caused by operations under this Subcontract.

Section 8.06 Subcontractor shall have a continuing duty to provide Contractor with a current list of its subcontractors and suppliers of any tier.

Section 8.07 Subcontractor shall verify all dimensions given in the Subcontract Documents for accuracy and shall take such measurements as will ensure the proper matching and fitting of the Work with contiguous work.

Section 8.08 Subcontractor shall prepare and submit to Contractor such shop drawings and submittals as may be necessary to completely describe the details and construction of the Work. Approval of shop drawings and submittals by Contractor will not relieve Subcontractor of its obligation to perform the Work in strict accordance with the Subcontract Documents or for the proper matching and fitting of the Work with contiguous work. The time requirements for submission of shop drawing and other submittals shall be coordinated by Subcontractor with Contractor so that sufficient time is allowed for review and comment without delay to the commencement or progress of the Work. All differences and discrepancies between Subcontractor's shop drawing and the Subcontract Documents shall be clearly highlighted, noted in writing and called to Contractor's attention.

Section 8.09 Should the proper and accurate performance of the Work of this Subcontract depend upon the proper and accurate performance of other work not included in this Subcontract, Subcontractor shall, prior to proceeding with the Work,

notify Contractor in writing of any known defects in such other work, including substrate and contiguous work, and shall allow Contractor a reasonable time to remedy such defects. Should Subcontractor proceed with its Work and fail to notify Contractor of any known defects in other work as required under the Subcontract, Subcontractor shall be considered to have accepted such other work as being fit and proper.

Section 8.10 Subcontractor's Work shall include all cutting and patching of substrate or contiguous work necessary for the proper performance of the Work.

Section 8.11 Subcontractor shall provide sufficient, safe, and proper facilities at all times for the inspection of the Work by Contractor, in the field, at shops, or at any other place where materials are in the course of preparation, manufacture, treatment, or storage. Subcontractor shall take down all portions of the Work and remove from the premises all material, whether worked or unworked, which Contractor shall condemn as unsound or improper, or as in any way failing to conform to the Subcontract Documents. Subcontractor shall, at its own cost and expense, make good all work damaged or destroyed by, through or under Subcontractor and replace all materials removed with proper materials.

Section 8.12 Subcontractor shall, on a daily basis or as otherwise directed by Contractor, clean and remove from Subcontractor's Work, contiguous work and adjoining property any dirt, droppings, spillage, debris, garbage and/or overspray, which was caused by the execution of the Work. Subcontractor shall clean up and remove from the premises all debris caused by the execution of the Work.

Section 8.13 Subcontractor agrees that in the event of any strike, picket, sympathy strike, work stoppage or other form of labor dispute or picket in connection with the work of Contractor, Subcontractor, the Owner, or any other subcontractor or person, Subcontractor will, contingent upon Contractor providing a picket free entrance, continue to perform the Work required in this Subcontract without interruption or delay. Contractor shall have no obligation to provide a picket free entrance should such labor activity be directed at Subcontractor. In the event Subcontractor fails to continue performance of the Work without interruption or delay, because of such picket or other form of labor dispute, Contractor may terminate the Subcontract after giving forty-eight (48) hours written notice, or Contractor may invoke any of the rights set forth elsewhere in this Subcontract.

Section 8.14 Project work hours shall be 7:30 AM to 4:00 PM unless modified by Contractor.

Article IX. REMEDIES

Section 9.01 Contractor's Remedies

- (a) Damages for delay, including those assessed against Contractor pursuant to the Prime Contract, shall be assessed against Subcontractor only to the extent caused by the Subcontractor or any person or entity for whose acts the Subcontractor may be liable.
- (b) Should Subcontractor at any time: (1) refuse or neglect to supply sufficient and properly skilled workers; (2) refuse or neglect to supply materials of the proper quality; (3) fail in any respect to prosecute the Work with promptness and diligence; (4) make a general assignment for the benefit of its creditors, have a receiver appointed to take over its affairs, or, in the opinion of Contractor, become financially or legally incapable of completing the work; or (5) fail in the performance of any of the covenants contained in this Subcontract; and fail to correct such default or neglect with diligence and promptness within three (3) days after written notice from Contractor, then Subcontractor shall be in default of this Subcontract and Contractor may, without additional written notice or prejudice to any other remedy, either:
 - (i) provide such labor, materials, or services or other Work as is required by this Subcontract; or
 - (ii) terminate the employment of Subcontractor for the Work, enter upon the premises, take possession of all materials, tools, and appliances on the premises for the purpose of completing the Work, employ any other person or persons to finish the Work, and provide the materials required under this Subcontract.

Contractor shall be entitled to recover all of its expense under this Section including all labor, materials, services (whether by Contractor or others) and any other cost (including attorneys' fees) or damages incurred as a result of Subcontractor's default. Contractor may withhold payment and deduct the expense, costs and damages resulting from Subcontractor's default from any money then due or that may become due to the Subcontractor under this Subcontract. If such expense exceeds the unpaid balance of the amount to be paid under this Subcontract, the Subcontractor shall pay the difference to Contractor on demand. If this Subcontract is terminated, the Subcontractor shall not be entitled to receive any further payment under this Subcontract until the Work is complete and a final resolution of all claims, damages, losses and expenses arising out of or resulting from performance of the Work has

been achieved, and Owner has paid Contractor in full for all Work performed by Subcontractor under this Subcontract.

- (c) If at any time there shall be evidence of any invoice, bill, lien or claim arising from Subcontractor's operations under this Subcontract or any other agreement between the Parties ("Claim") for which Contractor, Owner, a surety, or any property, may be or become liable or subject to, then Contractor shall have the right to retain out of any payment then due or that may become due to Subcontractor, an amount sufficient to discharge such Claim and reimburse Contractor, Owner, and surety for all costs and expenses (including attorneys' fees) in connection with such Claim. If Subcontractor has failed to resolve a Claim or provide a bond to protect Owner, Contractor and any surety against such Claim within ten (10) days after written notice, Contractor, Owner or a surety shall have the right to make payment on such Claim out of funds due or to become due the Subcontractor. The Subcontractor shall defend, indemnify and hold harmless the Contractor, the Owner and surety for all claims or amounts any of them may be liable, become liable or have in good faith paid in discharging any Claim, including any associated costs and expenses (including attorneys' fees). The rights and obligations hereunder shall not apply in the event that the Claim arises from Contractor's failure to make payment to Subcontractor in accordance with the Subcontract.
- (d) If Subcontractor fails to clean up as provided in the Subcontract Documents, Contractor shall give Subcontractor written notice to comply within twenty-four (24) hours. If Subcontractor fails to comply within twenty-four (24) hours, Contractor is authorized to perform the cleanup and to assess Subcontractor a reasonable charge. The Subcontract Sum will be reduced for Contractor's cleanup costs.

Section 9.02 Subcontractor's Remedies

If Contractor does not pay Subcontractor through no fault of Subcontractor, within seven (7) days from the time payment should be made as provided in this Subcontract, Subcontractor may, without prejudice to any other available remedies, upon seven (7) additional days' written notice to Contractor, stop the Work of this Subcontract until payment of the amount owing has been received. The Subcontract Sum shall, by appropriate written modification, be increased by the amount of Subcontractor's reasonable costs of demobilization, delay and remobilization.

Section 9.03 Mutual Waiver of Consequential Damages

Contractor and Subcontractor waive claims against each other for their own consequential damages arising out of or relating to this Subcontract, including without limitation, any consequential damages due to either Party's termination. This waiver shall not apply to any damages assessed against Contractor in accordance with the Prime Contract, or damages related to Subcontractor's indemnification obligations.

Article X. INDEMNITY

Section 10.01 To the fullest extent permitted by law, Subcontractor shall defend, indemnify and hold harmless the Owner, Contractor, other parties that Contractor is required to indemnify under the Prime Contract and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of Subcontractor's Work under this Subcontract, but only to the extent caused by the negligent acts or omissions of the Subcontractor, Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. However, Subcontractor shall not be required to indemnify any indemnified party to the extent any such claim, damage, loss or expense was caused by the negligence or other fault of such indemnified party. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section.

Section 10.02 In claims against any person or entity indemnified under this Article by an employee of the Subcontractor, the Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the obligations under preceding Section shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor or its lower-tier subcontractors under workers' compensation acts, disability benefit acts or other employee benefit acts.

Article XI. WARRANTY

Subcontractor warrants to Contractor and all other parties that Contractor warrants its work to as set forth in the Prime Contract that materials and equipment furnished under this Subcontract will be of good quality and new unless the Subcontract Documents require or permit otherwise. Subcontractor further warrants that the Work will conform to the requirements of the Subcontract Documents and will be free from defects, except for those inherent in the quality of the Work the Subcontract Documents require or permit. Work, materials, or equipment not conforming to these requirements,

including substitutions not properly approved and authorized, may be considered defective. Subcontractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Subcontractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect, Owner or Contractor, Subcontractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Subcontract Documents.

Article XII. INSURANCE

Subcontractor shall comply with the requirements of Exhibit C.

Article XIII. BONDS

Contractor shall have the right to require Subcontractor to furnish bonds providing for the faithful performance of the Subcontract and the payment of all obligations arising under the Subcontract on Contractor's standard form (or such form as required by law) the cost of which will not be included in the Subcontract Sum. Subcontractor shall invoice Contractor the cost of such bonds separately with no markup which must be supported by an invoice from the Subcontractor's surety or surety broker. Contractor will reimburse Subcontractor for the cost of such bonds separately. Bonds shall be issued by a surety company that is rated "A-" or better by A.M. Best Company, has a per bond underwriting limit set forth in the most current United States Treasury Department Circular 570 List that is greater than or equal to the face value of the bond, and approved by the Contractor.

Article XIV. MEDIATION AND BINDING DISPUTE RESOLUTION

Section 14.01 Mediation

- (a) Any claim arising out of or related to this Subcontract, except those waived in this Subcontract, shall be subject to mediation as a condition precedent to binding dispute resolution.
- (b) 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 proper jurisdiction.

Section 14.02 Binding Dispute Resolution

- (a) Any claim not resolved by mediation shall be resolved in the manner described in this Section.
- (b) Subcontractor shall be bound by all decisions, interpretations, findings of fact or law, whether express, implied, interim, or final (each a "Decision," and collectively "Decisions"), arising out of the claim and dispute resolution processes set forth in the Prime Contract to the extent: (1) such Decisions relate to or affect the Work or services subcontracted to Subcontractor; (2) any claim by Owner against Contractor involves the performance of Subcontractor; or (3) any claim of Subcontractor gives rise to a claim by Contractor against Owner. The initiation of claim or dispute resolution under the Prime Contract shall stay dispute resolution under this Subcontract on any claim or issue brought by Subcontractor related to the dispute under the Prime Contract.
- (c) To the extent Subcontractor will be bound as set forth above, Contractor agrees to Subcontractor's participation (and joinder if requested) in such claim or dispute resolution process, and Subcontractor may appeal (in the event Subcontractor has been joined as a party), or request Contractor to appeal, any Decision pursuant to the claim or dispute resolution procedure of the Prime Contract. Subcontractor and Contractor shall individually bear the costs associated with their own claims in such appeal. A Party will follow the other Party's directions regarding the other Party's claims, unless such directions adversely affect the Party's own claims. In that event the Parties will agree on how to proceed. Each Party will give the other Party reasonable assistance.
- (d) Subcontractor consents to joinder in any dispute or claim resolution process under the Prime Contract, including arbitration. This agreement to arbitrate and agreement to arbitrate with another person or persons, if applicable, shall be specifically enforceable under applicable law in any court having jurisdiction.
- (e) Any claim or dispute not involving the Prime Contract or waived in this Subcontract shall be subject to arbitration, which arbitration shall be conducted in accordance with the then-current Construction Industry Arbitration Rules promulgated by the American Arbitration Association. Prior to arbitration, the Parties shall endeavor to resolve claims and disputes by mediation. In the event of arbitration, the award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.
- (f) Unless otherwise agreed in writing by the Contractor, the Subcontractor shall continue to fully perform its Work and maintain its progress during any dispute or any claim under this Subcontract.

- (g) The provisions of this Article supersede provisions of the Prime Contract or other Subcontract Document terms, if any, to the contrary.
- (h) To the fullest extent permitted by law and without limiting any other provision in this Subcontract, if either Party asserts a claim against the other Party in a lawsuit or arbitration proceeding, the prevailing Party shall be entitled to recover its costs, including reasonable attorneys' fees, incurred in connection with prosecuting or defending against that claim. Subcontractor shall pay any reasonable attorney's fees and costs incurred by or assessed against Contractor in connection with any claim that Subcontractor requests that Contractor assert on Subcontractor's behalf under the claim or dispute resolution procedure of the Prime Contract.

Section 14.03 This Article shall survive completion or termination of the Subcontract.

Article XV. TERMINATION, SUSPENSION AND ASSIGNMENT

Section 15.01 Termination

- (a) Contractor's right to terminate this Subcontract for cause are set forth in a preceding Section.
- (b) Contractor may terminate this Subcontract for Contractor's convenience and without cause with ten (10) days written notice to Subcontractor. If the Owner terminates the Prime Contract for the Owner's convenience, Contractor shall promptly deliver written notice to the Subcontractor that this Subcontract is terminated for convenience.
- (c) Upon receipt of written notice for termination for convenience, except to the extent Contractor directed Subcontractor in the notice of termination to complete certain Work prior to the effective date of the termination, Subcontractor shall: (1) cease operations as directed by Contractor in the notice; (2) take all actions necessary or directed by Contractor to protect and preserve the Work; and (3) terminate all existing lower tier subcontracts and purchase orders.
- (d) In the event of termination for convenience, Subcontractor may request payment for Work executed, and costs incurred by reason of such termination; provided, however, Subcontractor shall only be reimbursed for costs incurred by reason of termination to the extent Owner first reimburses Contractor for such costs.
- (e) In the event Contractor terminates this Subcontract for cause, and it is determined for any reason that Subcontractor was not in default, or that the default was excusable, then the rights and the obligations of the Parties shall be the same as if Contractor had terminated the Subcontract for convenience.

Section 15.02 Suspension

- (a) Contractor may, without cause, order the Subcontractor in writing to suspend, delay or interrupt the Work of this Subcontract in whole or in part for such period of time as the Contractor may determine. In the event of suspension ordered by the Contractor, provided Subcontractor is not otherwise in default hereunder, the Subcontractor shall be entitled to an equitable adjustment of the Subcontract Time and Subcontract Sum; provided, however, no adjustment shall be made to the extent that: (1) performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Subcontractor is responsible; or (2) an equitable adjustment is made or denied under another provision of this Subcontract.
- (b) In the event Owner suspends the Work of the Prime Contract, or the portion of the Work of the Prime Contract affecting this Subcontract, Subcontractor shall be entitled to an equitable adjustment of the Subcontract Time and Subcontract Sum to the extent the Contractor receives such relief under the Prime Contract.

Section 15.03 Assignment

- (a) Effective upon the occurrence of the conditions set forth in the Prime Contract, this Subcontract is assigned to the Owner. Each of Subcontractor's lower-tier subcontracts and purchase orders shall provide that such lower-tier subcontracts and purchase orders are similarly assigned to the Owner.
- (b) Subcontractor shall neither assign the Work of this Subcontract nor subcontract the whole or a portion of this Subcontract without Contractor's written consent which consent may be withheld in Contractor's sole discretion.

Section 15.04 Collateral Assignment

The Subcontractor shall not assign or factor any of the funds to be received under or through this Subcontract unless such assignment has the written approval of the Contractor. In order to be so approved, any such assignment shall include the following language:

It is agreed the funds to be paid to the Assignee under this Assignment are subject to satisfactory performance of the Subcontract under which this Assignment is made (this "Subcontract") by the Assignor (the "Subcontractor") and subject to payment of all invoices, bills, claims, or liens for services rendered or

materials supplied for the performance of any portion of the Work called for in this Subcontract with Contractor or any other subcontract agreement between Contractor and Subcontractor. Contractor reserves the right to set-off against any funds which may be due Subcontractor by Contractor or funds to be paid the Assignee the amount of any claim or liens arising under or through this or any other subcontract agreement with the Subcontractor.

Article XVI. MISCELLANEOUS PROVISIONS

Section 16.01 For this Project, Subcontractor agrees to use Contractor's electronic delivery and signature process facilitated by a third-party administrator. The Parties acknowledge and agree that such digital/electronic signatures shall have the same legal effect as a written signature. Subcontractor shall be solely responsible for ensuring that an authorized representative of Subcontractor signs the Agreement and other documents utilizing Contractor's electronic signature process. Subcontractor agrees not to contest the validity or enforceability of any signature provided through Contractor's electronic signature process. Subcontractor also agrees to the electronic delivery of the fully executed Subcontract and other documents in a .pdf format via email. Either Party may copy this completed Subcontract and other documents for electronic storage in a non-editable format. Contractor and Subcontractor each agree that following the electronic storage of these documents, any hard copy printout of the electronically stored information will constitute an original document.

Section 16.02 Subcontractor agrees to comply with the provisions of any applicable local, state, or federal ordinance, regulation, statute, or other mandate regarding affirmative action and/or minority/women's business enterprise participation.

Section 16.03 The risk of loss for materials and equipment provided under this Subcontract, whether in a deliverable state or otherwise, shall remain with the Subcontractor until delivered to the job site and incorporated into the Work. Any damage to the material and equipment or loss of any kind occasioned in transit shall be borne by the Subcontractor, notwithstanding the manner in which the material or equipment is shipped or who pays the freight or other transportation costs. Unless otherwise provided, all materials shipped to the job site in performance of this Subcontract shall be shipped at Subcontractor expense. In the event of claims by carriers against Contractor for shipping costs, Contractor shall be entitled to pay such claims and deduct the amount of the claims from the Subcontract Sum.

Section 16.04 Contractor is an Equal Employment Opportunity employer. As such, the requirements of 41 CFR 60-1.4(b) are incorporated by this reference, if applicable. **Contractor and Subcontractor shall abide by the requirements of 41 CFR 60-4.3(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.**

Section 16.05 Subcontractor shall retain all documentation related to this Project for the duration of the statute of repose.

Section 16.06 This Subcontract contains every obligation and understanding between the Parties relating to the subject matter of this Subcontract, merges all prior discussions, negotiations and agreements, if any, between them, and neither Party shall be bound by any representation, warranty, covenant, or other understanding unless it is in writing and duly executed by the Parties.

Section 16.07 It is the intention of the Parties that each provision of this Subcontract shall be enforced according to its terms and that no provision shall be construed in a manner which renders it invalid or unenforceable. However, if any provision of this Subcontract is determined to be invalid or unenforceable, such provision shall be severed from this Subcontract and the remaining provisions shall remain intact and shall constitute the Subcontract between the Parties without regard to the invalidated provision.

THIS SUBCONTRACT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES.

CONTRACTOR

SUBCONTRACTOR

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

License No.: _____

License No.: _____

FEIN: _____
(if no FEIN, enter business owner SSN)

PART 1 - GENERAL

1.1 SUMMARY

- A. The form of Agreement between Contractor and a Supplier to provide materials, goods, or equipment is the Material & Equipment Contract (“M&E Contract”) included in this Section 00 52 00.20.

END OF SECTION

PJD

MATERIAL AND EQUIPMENT CONTRACT

AGREEMENT

made this day of in the year Two-Thousand

BETWEEN the Contractor: J.E. Dunn Construction Company
766 Elks Drive, Suite B
Dickinson, North Dakota 58601

and the Supplier:

Project: Dunn County Buildings and Improvements

JE Dunn Project #

Owner: Dunn County, North Dakota
205 Owens Street
Manning, North Dakota 58642

Architect: JLG Architects
416 E. Main Avenue
Bismarck, North Dakota 58501

The Contractor and Supplier agree as set forth below.

ARTICLE I The Contract Documents for this Contract consist of this Agreement and any Exhibits attached hereto, the Agreement between the Owner and Contractor, and the Conditions of the Contract between the Owner and Contractor (General, Supplementary and other Conditions), Drawings, Specifications, all Addenda issued prior to execution of the Agreement between the Owner and Contractor, and all Modifications issued subsequent thereto.

All of the above documents are a part of this Contract and shall be available for inspection by the Supplier upon request. The Contract Drawings and Specifications and any addenda and Modifications issued prior to the execution of this Contract and applicable to it are enumerated in Exhibit A, attached.

ARTICLE II The Supplier shall furnish and deliver to the project the material and equipment listed in Exhibit B, Contract Sum and Scope of Work.

ARTICLE III The Contractor shall pay the Supplier for the performance of the Work, subject to additions and deductions by Change Order, the Contract Sum set forth in Exhibit B, Contract Sum and Scope of Work.

Unless authorization is given in writing by the Contractor for a change in the work, a request for payment for such change in work will not be honored.

ARTICLE IV The Contract Sum includes all applicable sales tax. Supplier shall be responsible to remit sales tax to the appropriate authorities and indemnify Contractor and Owner from any claims arising out of Supplier's failure to pay such tax. If the Contract Sum is subject to use tax, Supplier shall notify Contractor and Contractor will be responsible for payment of the use tax to the appropriate authorities.

ARTICLE V The Contractor shall pay the Supplier monthly progress payments. Pay estimates are to be submitted in accordance with Contract Documents. Applications for monthly progress payments shall be in writing, shall state the Work in this Contract that has been satisfactorily completed and shall be submitted to the Contractor at least five (5) business days before the date the Prime Contract requires that Contractor submit Contractor's application for payment to the Owner.

The Contractor shall pay the Supplier each progress payment and the final payment under this Contract within five (5) working days after he receives payment from the Owner. The amount of each progress payment to the Supplier shall be equal to the amount allowed for materials and/or equipment suitably stored by the Supplier less the aggregate of previous payments to the Supplier and less the percentage retained as provided in the Contract Documents.

ARTICLE VI Before issuance of any payment the Supplier, if required, shall submit evidence satisfactory to the Contractor that all payrolls, bills for materials and equipment, and all known indebtedness connected with the Supplier's Work have been satisfied.

ARTICLE VII The Supplier warrants that all materials and/or equipment furnished by him to the Project shall be new unless otherwise specified, and that all Work under this Contract shall be of good quality, free from faults and defects and in conformance with the Contract Documents. All materials and/or equipment not conforming to these standards may be considered defective. Such warranty shall survive delivery and shall not be deemed waived either by reason of Contractor's acceptance of such materials or articles or by payment for them. Such warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

ARTICLE VIII Should the Supplier at anytime refuse or neglect to supply a sufficiency of material and/or equipment of the proper quality, or fail in any respect to prosecute the work with promptness and diligence, or fail in the performance of any of the agreements herein contained, the Contractor shall be at liberty, after three (3) days written notice to the Supplier, to provide any such materials, and to deduct the cost thereof from any money then due or thereafter to become due to the Supplier under this Contract; and if the Contractor shall deem that such refusal, neglect or failure is sufficient grounds for such action, the Contractor shall also be at liberty to terminate the employment of the Supplier and to complete the performance of this Contract; and in case of such discontinuance the

Supplier shall not be entitled to receive any further payment under this Contract until the said Work shall be wholly finished, at which time, if the unpaid balance of the amount to be paid under this Contract shall exceed the expense incurred by the Contractor, completing the Contract, such excess shall be paid by the Contractor to the Supplier; but if such expense shall exceed such unpaid balance, the Supplier shall pay the difference to the Contractor. The expense incurred by the Contractor as herein provided shall include furnishing materials and any expense or other damages incurred through such default.

The supplier shall carry on his work so as not to delay the Contractor or its Subcontractors in any way, nor delay the completion and acceptance of the Project. To the extent the Contractor suffers damages or costs as a result of Supplier's performance or non-performance of the Work of this Contract, Contractor shall be entitled to assess such damages and costs against the Supplier.

ARTICLE IX SUPPLIER'S RESPONSIBILITIES

The Supplier shall be bound to the Contractor by the terms of this Agreement and of the Contract Documents between the Owner and Contractor and shall assume toward the Contractor all the obligations and responsibilities which the Contractor, by those Documents, assumes toward the Owner, including, but not limited to, obligations of indemnity, and shall have the benefit of all rights, remedies and redress against the Contractor which the Contractor, by those Documents, has against the Owner, insofar as applicable to this Supplier.

The Supplier shall pay for all materials, equipment and labor used in, or in connection with, the performance of this Contract and shall furnish satisfactory evidence, when requested by the Contractor, to verify compliance with the above requirements.

The Supplier shall make all claims promptly to the Contractor for additional work, extensions of time, and damage for delays or otherwise, in accordance with the Contract Documents, and in any event, at least two days prior to the date that the Contractor is required to submit a claim to Owner.

The Supplier shall promptly submit shop drawings and samples as required in order to perform his work efficiently, expeditiously and in a manner that will not cause delay in the progress of the Work of the Contractor, Subcontractors or other Suppliers.

The Supplier agrees to comply with the provisions of Executive Order 11246, as amended by order 11357, and Title VII of the 1964 Civil Rights Act.

The risk of loss for materials and equipment provided by Supplier, whether in a deliverable state or otherwise, shall remain with the Supplier until delivered to the jobsite and actually received by the Contractor, and any damages to the material and equipment or loss of any kind occasioned in transit shall be borne by the Supplier, notwithstanding the manner in which the goods are shipped or who pays the freight or other transportation costs.

Unless otherwise provided, all materials shipped to the jobsite in performance of this Contract shall be shipped prepaid. Failure to so ship and resultant claims by carriers against the Contractor for said shipping costs shall result in payment by Contractor for said charges and set-off against the Contract amount.

If at any time there shall be evidence of any invoice, bill, lien or claim (hereafter "claim") in respect to this Contract for which, if not paid by the Supplier, the Contractor or the Owner of the Project premises might become liable, the Contractor shall have the right to retain out of any payment then due or thereafter to become due an amount sufficient to completely indemnify against such claim. If, within 30 days, the Supplier has failed to resolve the claim for payment, or failed to provide a Bond to protect the Owner and Contractor against such claim, the Contractor shall have the right to make payment on such claim out of funds of the Supplier. If no such funds are available, the Supplier shall refund to the Contractor all monies that the latter has in good faith paid in discharging any such claim.

The Contractor may, at its option, terminate this Contract upon the filing by the Supplier, or the filing against Supplier, in any court pursuant to any statute of the United States or any state, of a petition in bankruptcy or insolvency, or for reorganization, or for appointment of a receiver of a trustee of all or a portion of Supplier's property or upon assignment by the Supplier of the work or funds due under or through this Contract.

ARTICLE X CONTRACTOR'S RESPONSIBILITIES

The Contractor shall be bound to the Supplier by the terms of this Agreement and of the Contract Documents between the Owner and the Contractor and shall assume toward the Supplier all the obligations and responsibilities that the Owner, by those Documents, assumes toward the Contractor, and shall have the benefit of all rights, remedies and redress against the Supplier, including, but not limited to, rights of indemnity, which the Owner, by those Documents, has against the Contractor, insofar as applicable to this Contract, provided that where any provision of the Contract Documents between the Owner and the Contractor is inconsistent with any provision in this Agreement, the Agreement shall govern.

The Contractor shall promptly notify the Supplier of all modifications to the Contract between the Owner and the Contractor which affect this Contract and which were issued or entered into subsequent to the execution of this Contract.

The Contractor shall permit the Supplier to be present and to submit evidence in any proceeding involving his rights.

ARTICLE XI All claims, disputes and other matters in questions arising out of, or relating to, this Contract, or the breach thereof, shall be decided in the same manner and under the same procedure as provided in the Contract Documents with respect to disputes between the Owner and the Contractor.

This Article shall not be deemed a limitation on any rights or remedies which the Supplier may have under any Federal or State mechanics' lien laws or under any applicable labor and material payment bonds unless such rights or remedies are expressly waived by him.

ARTICLE XII The Supplier shall not assign this Contract without the written consent of the Contractor, nor subcontract of the whole of this Contract without the written consent of the Contractor, nor further subcontract portions of this Contract without written notification to the Contractor. The Supplier shall not assign any amounts due or to become due under this Contract without the written approval of the Contractor.

ARTICLE XIII The Supplier will maintain all insurance required by the Contract Documents.

ARTICLE XIV For this Project, Supplier agrees to use Contractor's electronic delivery and signature process facilitated by a third-party administrator. The parties acknowledge and agree that such digital/electronic signatures shall have the same legal effect as a written signature. Supplier shall be solely responsible for ensuring that an authorized representative of Supplier signs the Contract and other documents utilizing Contractor's electronic signature process. Supplier agrees not to contest the validity or enforceability of any signature provided through Contractor's electronic signature process. Supplier also agrees to the electronic delivery of the fully executed Contract and other documents in a .pdf format via email. Either party may copy this completed Contract and other documents for electronic storage in a non-editable format. Contractor and Supplier each agree that following the electronic storage of these documents, any hard copy printout of the electronically stored information will constitute an original document.

List of Exhibits

Exhibit A – Contract Documents

Exhibit B – Contract Sum and Scope of Work

Exhibit C – General Conditions

**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH
MAY BE ENFORCED BY THE PARTIES.**

This Agreement executed the day and year first written above.

CONTRACTOR: J. E. Dunn Construction Company

SUPPLIER:

BY: _____

BY: _____

Title: _____

Title: _____

SECTION 00 61 13
PERFORMANCE AND PAYMENT BOND



PART 1 - GENERAL

1.1 SUMMARY

- A. The Performance and Payment Bond, if required, shall be written on the form attached to this Section.

END OF SECTION



Surety Company MUST provide the following:
Bond No. _____
Phone No. _____
Fax No. _____

SUBCONTRACTOR PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That _____
(Include Subcontractor's Legal Business Name and Address)

(hereinafter called "Principal"), as Principal and _____
(Include Surety's Legal Business Name and Address) Organized and existing under the laws of the state of _____ (hereinafter called the "Surety"), as
 Surety, are held and firmly bound unto J.E. Dunn Construction Company, (hereinafter called the "Obligee") in the sum of

_____ (\$ _____)
 ("Penal Sum"), for the payment of which sum well and truly to be made, the said Principal and Surety bind themselves, and their respective
 heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Obligee has been awarded a contract (hereinafter called the "Prime Contract").

by _____
(Include Name and Address of Project Owner)

for _____
(Include Name and Address of Project - NOT SCOPE) and;

WHEREAS, the Principal has entered into a written subcontract with the Obligee, dated _____, 20____
(Date of Subcontract)
 to perform as Subcontractor, which Subcontract is hereby referred to and made apart hereof.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall promptly make payment to all
 persons (a) supplying labor, services, utilities, equipment or any other goods or services, in the prosecution of the work provided for in said
 Subcontract and any and all modifications of said Subcontract that may hereafter be made; (b) pensions, welfare, vacation and/or
 supplemental employee benefit contributions payable under collective bargaining agreements with respect to a person employed upon such
 Work; (c) federal, state and local taxes and contributions required by law to be withheld or paid with respect to the employment of persons
 upon said Work; and (d) otherwise fully indemnify and save Obligee from and against any claims or liens asserted by any party as a result
 of payment claimed due or concerning the Subcontract, including attorney's fees and expenses, then this obligation shall be null and void;
 otherwise it shall remain in full force and effect.

The said Surety agrees that no change, increase in the Subcontract Sum, extension of time, alteration, addition, omission, or
 other modification of the terms of either the said Subcontract or the said Prime Contract, or both, or in the said Work to be performed, or in
 the specifications, or in the plans, shall in anywise change its obligation on this Bond, and it does hereby waive notice of any such changes,
 increases, extensions of time, alterations, additions, omissions, and other Modifications. The Penal Sum shall automatically increase by the
 amount of any Change Order, Modification, or other supplemental agreement or amendment that increases the Subcontract Sum in
 accordance with the Subcontract. Decreases in the Subcontract Sum shall not, however, reduce the Penal Sum.

The said Principal and the said Surety agree that this Bond shall inure to the benefit of all persons supplying labor and
 material in the prosecution of the work provided for in said Subcontract, as well as to the Obligee, and that such persons may maintain
 independent actions upon this Bond in their own names.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this _____
 day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these presents
 duly signed by its undersigned representative, pursuant to the authority of its governing body.

(Legal Name of Principal) (Seal)

Witness: By _____
(Name & Title of Authorized Signor)

Or Secretary's Attest (Form Must Be Witnessed) (Signature)

(Legal Name of Surety) (Seal)

Witness: By _____
(Name & Title)

Or Secretary's Attest (Form Must Be Witnessed) (Signature)



Surety Company MUST provide the following:
Bond No. _____
Phone No: _____
Fax No: _____

SUBCONTRACTOR PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, _____

(Include Subcontractor's Legal Business Name and Address)

(hereinafter called the "Principal") as Principal and _____

(Include Surety's Business Name and Address)

organized and existing under the laws of the state of _____ (hereinafter called the "Surety"), as Surety, are held and firmly bound unto J.E. Dunn Construction Company, (hereinafter called the "Obligee") in the sum of

_____ (\$ _____)

(the "Penal Sum"), for the payment of which sum well and truly to be made, the said Principal and Surety bind themselves and their respective heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Obligee has been awarded a contract (hereinafter called the "Prime Contract").

by _____
(Include Name and Address of Project Owner)

for _____
_____ and;

(Include Name and Address of Project - NOT SCOPE)

WHEREAS, the Principal has entered into a written Subcontract with the Obligee, dated _____, 20____
(Date of Subcontract)

to perform, as Subcontractor, which Subcontract is hereby referred to and made a part hereof.

The Surety, for value received, agrees, if requested to do so by the Obligee, to perform fully all of the terms, conditions, obligations, undertakings, covenants, and agreements of the aforesaid Subcontract, as well as any duly authorized Modification thereof (collectively, the "Subcontract Obligations"), if the Principal fails, neglects, or refuses to perform fully and complete the Subcontract Obligations. The Surety further agrees to commence the performance and completion of said Subcontract Obligations within ten (10) days after delivery of notice from the Obligee of the failure, neglect, or refusal of the Principal to perform and complete or cause to be performed and completed the Subcontract Obligations, and to perform and complete the same within the time required under said Subcontract (as well as any duly authorized modification thereof), as extended by the period of time elapsing between the date of such failure, neglect, or refusal of the Principal and the date of the delivery of such notice by the Obligee to the Surety. In the event the Surety does not undertake the performance or completion of the Subcontract Obligations, or cause them to be performed and completed within the time stated above, then the Obligee shall have the remaining Subcontract Obligations performed and completed, Surety to remain liable hereunder for all costs and expenses, including attorney fees, at performance and completion.

It is expressly understood and acknowledged by the Surety that the term "Subcontract Obligations" in this Bond includes, but is not limited to: (i) any express or implied warranty obligations owed by the Subcontractor to the Obligee and (ii) any obligation contained in the Subcontract by which Subcontractor is to defend and/or indemnify Obligee against any losses, claims, demands or causes of action.

The said Surety agrees that no change, increase in the Subcontract Sum, extension of time, alteration, addition, omission, or other modification of the terms of either the said Subcontract or the said Prime Contract, or both, or in the said Work to be performed, or in the specifications, or in the plans, shall in anywise change its obligation on this Bond, and it does hereby waive notice of any such changes, increases, extensions of time, alterations, additions, omissions, and other Modifications. The Penal Sum shall automatically increase by the amount of any Change Order, Modification, or other supplemental agreement or amendment that increases the Subcontract Sum in accordance with the Subcontract. Decreases in the Subcontract Sum shall not, however, reduce the Penal Sum.

The Principal and the Surety agree that this Bond shall inure to the benefit of Obligee, its successors, and assigns and that such persons may maintain independent actions upon the Bond in their own names.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Witness: _____ (Seal)
Or Secretary's Attest (Form must be Witnessed)

By _____ (Legal Name of Principal)
(Name & Title of Authorized Signor)

Witness: _____ (Seal)
Or Secretary's Attest (Form must be Witnessed)

By _____ (Legal Name of Surety)
(Name & Title)
* _____ (Signature)

SECTION 00 62 76.10
PAY APPLICATION FORM



PART 1 - GENERAL

1.1 SUMMARY

A. The Payment Application shall be written on the form attached to this Section.

END OF SECTION

AIA[®] Document G702[™] – 1992

Application and Certificate for Payment

TO OWNER: PROJECT: - APPLICATION NO: 002
 FROM CONTRACTOR: VIA ARCHITECT: DISTRIBUTION TO:
 CONTRACTOR: ARCHITECT: OWNER:
 FIELD: CONTRACTOR:
 OTHER: CONTRACTOR:

CONTRACTOR'S APPLICATION FOR PAYMENT

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

- 1. ORIGINAL CONTRACT SUM \$ 0.00
- 2. NET CHANGE BY CHANGE ORDERS \$ 0.00
- 3. CONTRACT SUM TO DATE (Line 1 ± 2) \$ 0.00
- 4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$ 0.00
- 5. RETAINAGE:
 - a. 0 % of Completed Work (Column D + E on G703) \$ 0.00
 - b. 0 % of Stored Material (Column F on G703) \$ 0.00
 Total Retainage (Lines 5a + 5b or Total in Column I of G703) \$ 0.00
- 6. TOTAL EARNED LESS RETAINAGE \$ 0.00
 (Line 4 Less Line 5 Total)
- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT \$ 0.00
 (Line 6 from prior Certificate)
- 8. CURRENT PAYMENT DUE \$ 0.00
- 9. BALANCE TO FINISH, INCLUDING RETAINAGE
 (Line 3 less Line 6) \$ 0.00

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

Notary Public: _____
 My Commission expires: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

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

AMOUNT CERTIFIED \$ 0.00
 (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.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$ 0.00	\$ 0.00
Total approved this Month	\$ 0.00	\$ 0.00
TOTALS	\$ 0.00	\$ 0.00
NET CHANGES by Change Order	\$	0.00

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 User Notes: (2020303663)

SECTION 00 62 76.20
**PARTIAL WAIVER AND AFFIDAVIT (PRE-
 PAYMENT): SUBCONTRACTOR AND SUPPLIER**



Subcontractor/Supplier:	_____
Project Number and Name:	25039000 Dunn County Public Safety Center & Courthouse Remodel
Project Address:	205 Owens St Manning, ND 58642
Payment Application No:	_____
Payment Amount:	_____
Total Amount Paid:	_____
Subcontract Amount:	_____
Last date of work covered by the Payment Application:	_____
Contractor:	J.E. Dunn Construction Company

Beneficiaries: Contractor, Owner, and other parties, if any, having any interest in the Property.

1. In consideration of the payment to be made by Contractor to the undersigned Subcontractor/Supplier in the Payment Amount set forth above for work, labor, services, and/or materials furnished for the construction of the Project, and for any and all work, labor, material, or equipment furnished by or through said Subcontractor/Supplier, its sub-subcontractors, suppliers, equipment providers, and laborers and anything else in connection with the agreement between Contractor and Subcontractor/Supplier (“Subcontract”), through the last date of work covered by the Payment Application except as it pertains to unpaid retainage, if any, the undersigned Subcontractor/Supplier, effective upon remittance of the Payment Amount and contingent upon final clearance and payment of valuable consideration of the Payment Amount and being familiar with the penalties for false certification, represents and certifies to the Beneficiaries that:
 - A. Subcontractor/Supplier a) irrevocably and unconditionally waives and releases the Property, Project, and Beneficiaries from; and b) shall defend, indemnify, and hold harmless the Property, Project, Beneficiaries, their sureties, guarantors, and respective successors and assigns against:
 - i. Any and all liens, statutory or otherwise, or rights thereof;
 - ii. Any and all obligations under any bond or guaranty for payment furnished to or by the Beneficiaries, whether pursuant to an agreement or required by law; and
 - iii. Any other claims of any kind whatsoever, statutory or otherwise, except as

specifically claimed in accordance with the Subcontract Documents.

2. The following listed persons or entities are the Subcontractor/Supplier's only sub-subcontractors, equipment providers, materialmen or suppliers for the Project. This partial waiver, or one similar, will be required for all sub-subcontractors, equipment providers, materialmen and suppliers for each payment application. Future payments may be delayed if all documents are not submitted properly.

A. _____ Write "none" here if no sub-subcontractors, equipment providers, materialmen, or suppliers were used on this Project.

B. Sub-subcontractors, equipment providers, materialmen, or suppliers:

COMPANY NAME (of your material suppliers and/or subcontractors)	CONTRACT AMOUNT (if unknown, list N/A)	AMOUNT PAID TO DATE (cumulative amount)	AMOUNT PAID THIS PERIOD (thru date listed above)	REMAING BALANCE LEFT ON CONTRACT

3. Payment in full, less retainage, if any, has been made by the Subcontractor/Supplier through the period covered by all prior payments (a) to all of the Subcontractor/Supplier's sub-subcontractors, equipment providers, materialmen, suppliers, and laborers, and (b) for all materials and labor used or furnished by the Subcontractor/Supplier in connection with the performance of the Subcontract, except as noted below:

COMPANY NAME (of your material suppliers and/or subcontractors not paid)	AMOUNT NOT PAID	REASON WHY AMOUNT WAS NOT PAID

4. Subcontractor/Supplier has complied with Federal, State, and Local tax laws, including, without limitation, Income Tax Withholding, Sales Tax, Social Security, Unemployment Compensation, and Worker's Compensation laws, insofar as applicable to the performance of the Subcontract. Subcontractor/Supplier has paid, or out of the proceeds of this payment will promptly pay, all sales or use tax due and owing.

5. The undersigned is fully authorized and empowered to execute this instrument for and on behalf of said Subcontractor/Supplier and to bind it hereto and does in fact so execute this Partial Waiver and Affidavit. The undersigned acknowledges and agrees that the Beneficiaries or anyone on their behalf may and will act and rely upon this instrument in releasing any funds due or owing.
6. The remittance of the Payment Amount negotiated and/or endorsed by Subcontractor/Supplier and marked "paid" or otherwise accepted by the bank against which said remittance was drawn shall constitute conclusive proof that said Payment Application was paid and that the Payment Amount thereof was received by Subcontractor/Supplier, and this Partial Waiver and Affidavit shall become effective automatically and without requirement of any further act, acknowledgment, or receipt on the part of the Subcontractor/Supplier.

Subcontractor/Supplier

Authorized
Signature: _____

Name: _____

Title: _____

Date: _____

<p>State of: _____ County of: _____</p> <p>On this _____ day of _____, 20____, before me personally appeared _____, of _____, known to me to be the person who executed this document and acknowledged to me that he/she executed the same for the purposes therein stated.</p> <p>_____ Notary Public in and for said County and State</p> <p>_____ Commission Expires</p>

END OF SECTION

SECTION 00 62 76.30
PARTIAL WAIVER AND AFFIDAVIT (POST-PAYMENT): SUBCONTRACTOR AND SUPPLIER



Subcontractor/Supplier: _____

Project Number and Name: 25039000 Dunn County Public Safety Center & Courthouse Remodel

Project Address: 205 Owens St
Manning, ND 58642

Payment Application No: _____

Payment Amount: _____

Total Amount Paid: _____

Subcontract Amount: _____

Last date of work covered by the Payment Application: _____

Contractor: J.E. Dunn Construction Company

Beneficiaries: Contractor, Owner, and other parties, if any, having any interest in the Property.

1. In consideration of the payment made by Contractor to the undersigned Subcontractor/Supplier in the Payment Amount set forth above for work, labor and services and/or materials furnished for the construction of the Project, the undersigned Subcontractor/Supplier, effective upon remittance of the Payment Amount and contingent upon final clearance and payment of valuable consideration of the Payment Amount and being familiar with the penalties for false certification, represents and certifies to the Beneficiaries that:
 - A. Subcontractor/Supplier a) irrevocably and unconditionally waives and releases the Property, Project and Beneficiaries from; and b) shall defend, indemnify and hold harmless the Property, Project, Beneficiaries, their sureties, guarantors and respective successors and assigns against
 - i. any and all liens, statutory or otherwise, or rights thereof;
 - ii. any and all obligations under any bond or guaranty for payment furnished to or by the Beneficiaries, whether pursuant to an agreement or required by law; and
 - iii. any other claims of any kind whatsoever, statutory or otherwise, except as specifically claimed in accordance with the subcontract documents; and

for any and all work, labor, material or equipment furnished by or through said Subcontractor/Supplier, its sub-subcontractors, suppliers, equipment providers and laborers and anything else in connection with the agreement between Contractor and Subcontractor/Supplier (“Subcontract”), through the last date of work covered by the Payment Application except as it pertains to unpaid retainage, if any.

2. The following listed persons or entities are the Subcontractor/Supplier’s only sub-subcontractors, equipment providers, materialmen or suppliers for the Project. This partial waiver, or one similar, will be required for all sub-subcontractors, equipment providers, materialmen and suppliers for each payment application. Future payments may be delayed if all documents are not submitted properly.

A. Sub-subcontractors, equipment providers, materialmen or suppliers

B. _____ Write “none” here if no sub-subcontractors, equipment providers, materialmen or suppliers were used on this Project.

COMPANY NAME (of your material suppliers and/or subcontractors)	CONTRACT AMOUNT (if unknown, list N/A)	AMOUNT PAID TO DATE (cumulative amount)	AMOUNT PAID THIS PERIOD (thru date listed above)	REMAING BALANCE LEFT ON CONTRACT

3. Payment in full, less retainage, if any, has been made by the Subcontractor/Supplier through the period covered by all prior payments (a) to all of the Subcontractor/Supplier’s sub-subcontractors, equipment providers, materialmen, suppliers and laborers, and (b) for all materials and labor used or furnished by the Subcontractor/Supplier in connection with the performance of the Subcontract, except as noted below:

COMPANY NAME (of your material suppliers and/or subcontractors not paid)	AMOUNT NOT PAID	REASON WHY AMOUNT WAS NOT PAID

4. Subcontractor/Supplier has complied with Federal, State and Local tax laws, including, without limitation, Income Tax Withholding, Sales Tax, Social Security, Unemployment

Compensation and Worker's Compensation laws, insofar as applicable to the performance of the Subcontract. Subcontractor/Supplier has paid, or out of the proceeds of this payment will promptly pay, all sales or use tax due and owing.

5. The undersigned is fully authorized and empowered to execute this instrument for and on behalf of said Subcontractor/Supplier and to bind it hereto and does in fact so execute this Partial Waiver and Affidavit. The undersigned acknowledges and agrees that the Beneficiaries or anyone on their behalf may and will act and rely upon this instrument in releasing any funds due or owing.

Subcontractor/Supplier

Authorized
Signature: _____

Name: _____

Title: _____

Date: _____

State of: _____ County of: _____	
On this _____ day of _____, 20____, before me personally	
appeared _____,	
of _____, known to me to be the person who executed	
this document and acknowledged to me that he/she executed the same for the purposes therein stated.	
_____ Notary Public in and for said County and State	_____ Commission Expires

END OF SECTION

such Goods with other goods held by Seller; and (3) protect and bear the risk of loss or damage to such Goods until final completion and acceptance by Owner in accordance with the terms of the Agreement between Buyer and Seller for the Work of the Project (the "Project Agreement"). Seller, on behalf of its insurance companies insuring the property against loss, waives all rights of subrogation against Buyer.

The acceptance of the Goods described herein is not a waiver of any right of action that the Buyer may have for breach of warranty or any other cause under the Project Agreement with Seller, in equity, or at law.

In WITNESS WHEREOF, Seller has executed this Agreement the _____ day of _____, 20____.

Seller:

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

State of: _____	County of: _____
On this _____ day of _____, 20____, before me personally	
appeared _____,	
of _____, known to me to be the person who executed	
this document and acknowledged to me that he/she executed the same for the purposes therein stated.	
_____ Notary Public in and for said County and State	_____ Commission Expires

END OF SECTION

SECTION 00 62 79.20
STORED MATERIALS FORMS: NON-NEGOTIABLE
BAILMENT RECEIPT



Bailor: **DUNN COUNTY ND**

205 OWENS ST
MANNING, ND 58642

Bailee
Subcontractor/Supplier) _____
:

Location of Storage: _____

The goods, equipment and materials described below are held and stored at the above referenced location pursuant to the Contract by and between Bailee, as Subcontractor/Supplier, and J.E. Dunn Construction Company, as Contractor, for Work to be performed at the Dunn County Public Safety Center & Courthouse Remodel located at 205 Owens St Manning, ND 58642. In consideration of payment made to the undersigned Bailee, the receipt and sufficiency of which are admitted, the Bailee agrees:

1. to keep said goods and materials at the above mentioned address, separate and apart from all other goods and identified as subject to this bailment,
2. to keep said goods and materials fully insured against all risk of physical loss or damage,
3. to keep said goods protected from the weather, commingling, vandalism, and/or diversion from said Project, and
4. to deliver said goods and materials to the Project site in conjunction with the performance of Bailee's Contract referenced above or upon the direction of Bailor or its Contractor and no other.

Quantity	Description of Item

****As an alternative to completing the list above, include a separate list or other documentation providing the information requested above.****

The Bailee acknowledges that it has no ownership rights or title in, nor shall claim any lien upon, said goods and materials.

Agreed and Acknowledged:
Subcontractor/Supplier:

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

END OF SECTION

SECTION 00 65 00.10
FINAL WAIVER AND AFFIDAVIT (PRE-PAYMENT):
SUBCONTRACTOR AND SUPPLIER



Subcontractor/Supplier: _____

Project Number and Name: 25039000 Dunn County Public Safety Center & Courthouse Remodel

Project Address: 205 Owens St
Manning, ND 58642

Payment Application No: _____

Payment Amount: _____

Total Amount Paid: _____

Subcontract Amount: _____

Last date of work covered by the Payment Application: _____

Contractor: J.E. Dunn Construction Company

Beneficiaries: Contractor, Owner, and other parties, if any, having any interest in the Property.

1. In consideration of the previous payments made and the final payment to be made by Contractor to the undersigned Subcontractor/Supplier in the Final Payment Amount set forth above for work, labor and services and/or materials furnished for the construction of the Project, the undersigned Subcontractor/Supplier, effective upon remittance of the Payment Amount and contingent upon final clearance and payment of valuable consideration of the Payment Amount and being familiar with the penalties for false certification, represents and certifies to the Beneficiaries that:

A. Subcontractor/Supplier a) irrevocably and unconditionally waives and releases the Property, Project, and Beneficiaries from; and b) shall defend, indemnify, and hold harmless the Property, Project, Beneficiaries, their sureties, guarantors, and respective successors and assigns against

- i. any and all liens, statutory or otherwise, or rights thereof;
- ii. any and all obligations under any bond or guaranty for payment furnished to or by the Beneficiaries, whether pursuant to an agreement or required by law; and
- iii. any other claims of any kind whatsoever, statutory or otherwise; and

for any and all work, labor, material or equipment furnished by or through said

Subcontractor/Supplier, its sub-subcontractors, suppliers, equipment providers and laborers and anything else in connection with the agreement between Contractor and Subcontractor/Supplier (“Subcontract”), through the last date of work covered by the Payment Application except as it pertains to unpaid retainage, if any.

2. The following listed persons or entities are the Subcontractor/Supplier’s only sub-subcontractors, equipment providers, materialmen or suppliers for the Project. This final waiver, or one similar, will be required for all sub-subcontractors, equipment providers, materialmen and suppliers for each payment application. Final payments may be delayed if all documents are not submitted properly.

A. Sub-subcontractors, equipment providers, materialmen or suppliers

B. _____ Write “none” here if no sub-subcontractors, equipment providers, materialmen or suppliers were used on this Project.

COMPANY NAME (of your material suppliers and/or subcontractors)	CONTRACT AMOUNT (if unknown, list N/A)	AMOUNT PAID TO DATE (cumulative amount)	AMOUNT PAID THIS PERIOD (thru date listed above)	REMAING BALANCE LEFT ON CONTRACT

3. The previous amounts paid and the Final Payment Amount requested for the work and labor performed and material and equipment supplied on the Project represents the actual value of work and material provided under the terms of the Subcontract and all authorized changes thereto concerning work to be performed on the Property.

4. Payment in full has been made by the Subcontractor/Supplier through the periods covered by all prior payment applications (a) to all of the Subcontractor's or Supplier’s sub-subcontractors, equipment providers, materialmen, suppliers and laborers, and (b) for all materials and labor used or furnished by the Subcontractor/Supplier in connection with the performance of the Subcontract, except as noted below:

COMPANY NAME (of your material suppliers and/or subcontractors not paid)	AMOUNT NOT PAID	REASON WHY AMOUNT WAS NOT PAID

5. Subcontractor/Supplier has complied with Federal, State and Local tax laws, including, without limitation, Income Tax Withholding, Sales Tax, Social Security, Unemployment Compensation and Worker’s Compensation laws, insofar as applicable to the performance of the Subcontract. Subcontractor/Supplier has paid, or out of the proceeds of this payment will promptly pay, all sales or use tax due and owing.
6. The undersigned is fully authorized and empowered to execute this instrument for and on behalf of said Subcontractor/Supplier and to bind it hereto and does in fact so execute this Final Waiver and Affidavit. The undersigned acknowledges and agrees that the Beneficiaries or anyone on their behalf may and will act and rely upon this instrument in releasing any funds due or owing.
7. The remittance of the Final Payment Amount negotiated and/or endorsed by Subcontractor/Supplier and marked “paid” or otherwise accepted by the bank against which said remittance was drawn shall constitute conclusive proof that said Final Payment Application was paid and that the Final Payment Amount thereof was received by Subcontractor/Supplier and this Final Waiver and Affidavit shall become effective automatically and without requirement of any further act, acknowledgment or receipt on the part of the Subcontractor/Supplier.

Subcontractor/Supplier

Authorized
Signature: _____

Name: _____

Title: _____

Date: _____

State of: _____ County of: _____

On this _____ day of _____, 20____, before me personally
appeared _____,
of _____, known to me to be the person who executed
this document and acknowledged to me that he/she executed the same for the purposes therein stated.

Notary Public in and for said County and
State

Commission Expires

END OF SECTION

SECTION 00 65 00.20
FINAL WAIVER AND AFFIDAVIT (POST-PAYMENT): SUBCONTRACTOR AND SUPPLIER



Subcontractor/Supplier: _____

Project Number and Name: 25039000 Dunn County Public Safety Center & Courthouse Remodel

Project Address: 205 Owens St
Manning, ND 58642

Payment Application No: _____

Payment Amount: _____

Total Amount Paid: _____

Subcontract Amount: _____

Last date of work covered by the Payment Application: _____

Contractor: J.E. Dunn Construction Company

Beneficiaries: Contractor, Owner, and other parties, if any, having any interest in the Property.

1. In consideration of the payments made of the Final Payment Amount and all previous payment amounts by Contractor to the undersigned Subcontractor/Supplier for work, labor and services and/or materials furnished for the construction of the Project, the undersigned Subcontractor/Supplier, being familiar with the penalties for false certification, represents and certifies to the Beneficiaries that:

- A. Subcontractor/Supplier a) irrevocably and unconditionally waives and releases the Property, Project and Beneficiaries from; and b) shall defend, indemnify and hold harmless the Property, Project, Beneficiaries, their sureties, guarantors and respective successors and assigns against
 - i. any and all liens, statutory or otherwise, or rights thereof;
 - ii. any and all obligations under any bond or guaranty for payment furnished to or by the Beneficiaries, whether pursuant to an agreement or required by law; and
 - iii. any other claims of any kind whatsoever, statutory or otherwise,

for any and all work, labor, material or equipment furnished by or through said Subcontractor/Supplier, its sub-subcontractors, suppliers, equipment providers and

laborers and anything else in connection with the agreement between Contractor and Subcontractor/Supplier (“Subcontract”), Property, and Project.

2. The following listed persons or entities are the Subcontractor/Supplier’s only sub-subcontractors, equipment providers, materialmen or suppliers for the Project. This final waiver, or one similar, will be required for all sub-subcontractors, equipment providers, materialmen and suppliers.

A. Sub-subcontractors, equipment providers, materialmen or suppliers

B. _____ Write “none” here if no sub-subcontractors, equipment providers, materialmen or suppliers were used on this Project.

COMPANY NAME (of your material suppliers and/or subcontractors)	CONTRACT AMOUNT (if unknown, list N/A)	AMOUNT PAID TO DATE (cumulative amount)	AMOUNT PAID THIS PERIOD (thru date listed above)	REMAING BALANCE LEFT ON CONTRACT

3. The Final Payment Amount and all previous payment amounts for the work and labor performed and material and equipment supplied on the Project represents the actual value of work and material provided under the terms of the Subcontract and all authorized changes thereto concerning work to be performed on the Property.

4. Payment in full has been made by the Subcontractor/Supplier through the period covered by all prior payments (a) to all of the Subcontractor/Supplier’s sub-subcontractors, equipment providers, materialmen, suppliers and laborers, and (b) for all materials and labor used or furnished by the Subcontractor/Supplier in connection with the performance of the Subcontract, except as noted below:

COMPANY NAME (of your material suppliers and/or subcontractors not paid)	AMOUNT NOT PAID	REASON WHY AMOUNT WAS NOT PAID

5. Subcontractor/Supplier has complied with Federal, State and Local tax laws, including,

without limitation, Income Tax Withholding, Sales Tax, Social Security, Unemployment Compensation and Worker's Compensation laws, insofar as applicable to the performance of the Subcontract. Subcontractor/Supplier has paid, or out of the proceeds of this payment will promptly pay, all sales or use tax due and owing.

6. The undersigned is fully authorized and empowered to execute this instrument for and on behalf of said Subcontractor/Supplier and to bind it hereto and does in fact so execute this Final Waiver and Affidavit. The undersigned acknowledges and agrees that the Beneficiaries or anyone on their behalf may and will act and rely upon this instrument in releasing any funds due or owing.

Subcontractor/Supplier

Authorized
Signature: _____

Name: _____

Title: _____

Date: _____

State of: _____ County of: _____	
On this _____ day of _____, 20____, before me personally	
appeared _____,	
of _____, known to me to be the person who executed	
this document and acknowledged to me that he/she executed the same for the purposes therein stated.	
_____ Notary Public in and for said County and State	_____ Commission Expires

END OF SECTION

SECTION 00 72 00
PRIME CONTRACT BETWEEN OWNER AND
CONTRACTOR



PART 1 - GENERAL

1.1 SUMMARY

- A. The redacted Prime Contract between Owner and Contractor is provided on the following pages in this Section.

END OF SECTION



AIA[®] Document A133™ – 2009

**Standard Form of Agreement Between Owner and Construction Manager as
Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed
Maximum Price**

AGREEMENT made as of the Second day of October in the year Two Thousand Nineteen
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name and address)

Dunn County, North Dakota
205 Owens Street
Manning, ND 58642

and the Construction Manager:
(Name and address)

J.E. Dunn Construction Company
766 Elks Drive, Suite B
Dickinson, ND 58601

for the following Project:
(Name and address or location)

Dunn County Buildings and Improvements

The Architect:
(Name and address)

JIG Architects
416 E. Main Avenue
Bismarck, North Dakota 58501

The Owner's Designated Representative:
(Name, address and other information)

Tracy Dolezal
Dunn County, North Dakota
205 Owens Street
Manning, ND 58642

The Construction Manager's Designated Representative:
(Name, address and other information)

Marc Mellner
J.E. Dunn Construction Company
766 Elks Drive, Suite B
Dickinson, ND 58601

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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

AIA Document A201™-2007, 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.

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The Architect's Designated Representative:
(Name, address and other information)

Rob Remark Zach Mathern
JIG Architects
416 E. Main Avenue
Bismarck, North Dakota 58501

The Owner and Construction Manager agree as follows.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement and all exhibits, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, all 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. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™-2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2007, as modified and attached as Exhibit A, which document is incorporated herein by reference. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction

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Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other:

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

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§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 2.1.9 Notices and Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

1. A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
2. A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
3. A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
4. The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
5. A date by which the Owner must accept the Guaranteed Maximum Price.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 2.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The

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Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201-2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.1.3 The date for Substantial Completion of the Work shall be as stated in the Guaranteed Maximum Price Amendment signed by the parties, subject to adjustments in the time for completion as provided in the Contract Documents.

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. Unless otherwise provided, Construction Manager shall obtain competitive bids through a public bid process as required by applicable statutes from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. Construction Manager shall also provide Owner with information regarding the bids received. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

§ 2.3.2.4 *(paragraph deleted).*

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§ 2.3.2.5 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems sustainability and site requirements.

§ 3.1.2 The Owner shall, at the written request of the Construction Manager prior to commencement of the Construction Phase and thereafter, furnish to the Construction Manager satisfactory evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Furnishing of such evidence shall be a condition precedent to commencement or continuation of the Work. After such evidence has been furnished, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager.

Satisfactory evidence shall include without limitation, the following:

1. If financing the project in whole or in part through a loan or loans:
 - a. A copy of the "Sources and Uses" document provided to each Lender which indicates all sources of financing for the Project and the costs (uses) associated with same;
 - b. A copy of the loan commitment letter and loan agreement from each lender;
 - c. A certified letter from each lender stating at a minimum, a) the amount of the Loan; b) that the Lender has closed the Loan; and c) the full amount of the Loan allocated to the construction required of Construction Manager by the Contract Documents;
 - d. Each month, a copy of Owner's monthly draw to any Lender loaning money in connection with the Project;
2. If financing the project in whole or in part through equity or cash, credible information confirming source of equity money for the Project.
3. If financing the Project in whole or in part through bonds, information concerning bond financing, including the bond indenture and prospectus.
4. Owner's audited financial statements (or unaudited statements, if audited statements are not available) for the two years preceding the execution of this Agreement.

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§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 3.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 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. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsol conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 During the Construction Phase, 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 Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in the agreement between Owner and Architect, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

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ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:



§ 4.2 Payments

§ 4.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

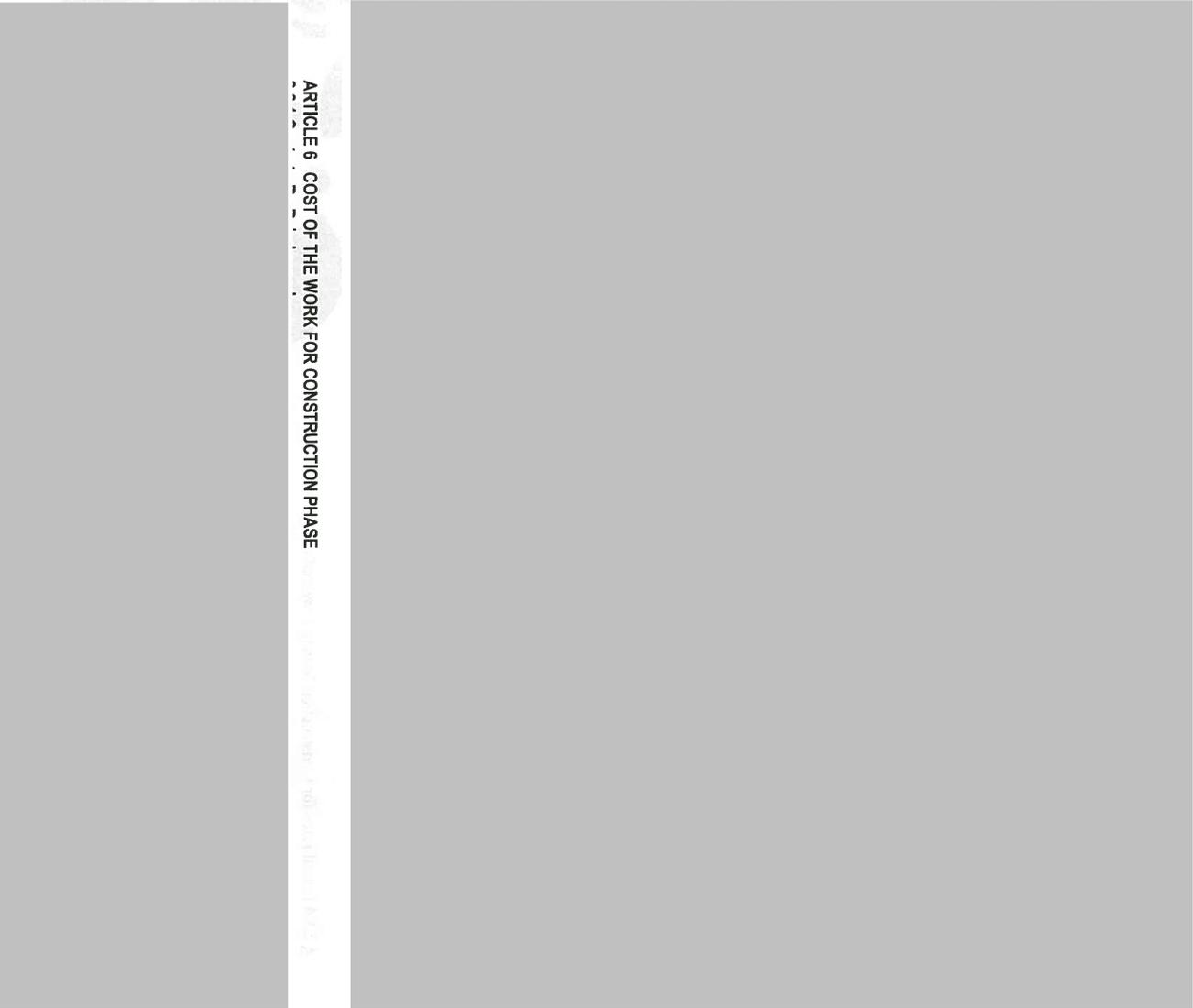
§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES



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ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

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§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner; or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner (other than (i) those from Construction Manager's related parties or (ii) incentive payments made to Construction Manager through Construction Manager's credit agreements), and the Construction Manager shall make provisions so that they can be obtained.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of this Agreement, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

(Paragraph deleted)
§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

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ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents. Applications for payment shall be submitted on AIA Documents G702 and G703.

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

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the thirtieth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment. Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate of ten percent (10%) per annum.

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager; less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. 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, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 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. The percentage of completion shall be the percentage of that portion of the Work which has actually been completed.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
2. Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
3. Add the Construction Manager's Fee. The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
4. Not used;
5. Subtract the aggregate of previous payments made by the Owner;
6. Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
7. Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

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§ 7.1.8 Except with the Owner's prior approval, a Five percent (5%) retainage shall be withheld from each progress payment until the Work is substantially complete.

However, no retainage shall be withheld on Construction Manager's Fee, general requirements, general conditions costs or self-performed work. At Substantial Completion, all retainage shall be paid to Construction Manager, less an amount equal to one hundred fifty percent (150%) of the value of incomplete punch list work.

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

§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.2 Final Payment

§ 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

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

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201-2007. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

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ARTICLE 8 INSURANCE AND BONDS

(Paragraph deleted)

The Owner acknowledges and agrees that the Construction Manager shall have the right to provide the insurance required of it under the Agreement through a Controlled Insurance Program ("CIP"). The required limits for Insurance and Bonds are stated in Article 11 of AIA Document A201-2007.

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 15.4 of AIA Document A201-2007
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

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

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201-2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager *(Paragraphs deleted)* the amounts described in Section 14.4 of A201-2007.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment, the Contract may be terminated as provided in Article 14 of AIA Document A201-2007.

(Paragraphs deleted)

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§ 10.3 Suspension
The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201-2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201-2007.

§ 11.2 Ownership and Use of Documents
Section 1.5 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law
Section 13.1 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.4 Assignment
The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other; except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201-2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions:
§ 11.5.1 The performance of construction phase services is contingent upon obtaining all necessary zoning and permits for the Project and written notice to proceed with the Work from the Owner to the Construction Manager.

ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 12.2 The following documents comprise the Agreement:

- 1. AIA Document A133-2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as modified
- 2. AIA Document A201-2007, General Conditions of the Contract for Construction, as modified and attached as Exhibit A
- 3.

(Paragraphs deleted)

Other documents:

(List other documents, if any, forming part of the Agreement.)

Exhibit B – Personnel Rates

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THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

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

DUNN COUNTY, NORTH DAKOTA

J.E. DUNN CONSTRUCTION COMPANY


OWNER (Signature)


CONSTRUCTION MANAGER (Signature)

Craig Polton Chairman
(Printed name and title)

Marc Mellmer VP
(Printed name and title)

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EXHIBIT A



General Conditions of the Contract for Construction

for the following **PROJECT**:
(Name and location or address)
Dunn County Buildings and Improvements

THE OWNER:
(Name, legal status and address)
Dunn County, North Dakota
205 Owens Street
Manning, North Dakota 58642

THE ARCHITECT:
(Name, legal status and address)
JLG Architects
416 E. Main Avenue
Bismarck, North Dakota 58501

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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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

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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, the Contract Documents do not 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, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 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 performance of the Architect's 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 on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

§ 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.

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§ 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.

§ 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.

§ 1.3 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 will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Substantial or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

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

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

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

ARTICLE 2 OWNER

§ 2.1 GENERAL

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. 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 The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the

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portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. 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.

§ 2.2.4 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.

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

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly 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.

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner 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, correct such deficiencies. 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 and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

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

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

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

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§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR
§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

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

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

§ 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 notice or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be responsible for any loss or damage arising from those Owner-required means, methods, techniques, sequences or procedures.

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

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

§ 3.4 LABOR AND MATERIALS

§ 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.

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

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

§ 3.5 WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 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.

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

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

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

§ 3.7.3 If the Contractor performs Work knowing it to be 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 notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the 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, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines 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 Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters and recognizes human remains, the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify 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

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continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 ALLOWANCES

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1** Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3** Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

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

§ 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

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

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals except to the extent that the Architect's review extends more than fifteen days after notice to the Architect that a timely review is needed.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required

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submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor 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 to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

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

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

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

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

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

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

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop

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Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

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

§ 3.14 CUTTING AND PATCHING

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

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed

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

§ 3.15 CLEANING UP

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

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

§ 3.16 ACCESS TO WORK

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

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 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 their employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

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Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 GENERAL

§ 4.1.1 The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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

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

§ 4.2 ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

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

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

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

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

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

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed.

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However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

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

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

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

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor; will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions 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. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

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

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

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 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, 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 responsibly in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

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

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

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

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

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

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

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 6.2 MUTUAL RESPONSIBILITY

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

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

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

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

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

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§ 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

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, by Change Order; Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement 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, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order; Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

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

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

§ 7.3 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 of the following methods:

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

§ 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.

§ 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.

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

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

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

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

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. 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 shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, 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.

§ 7.4 MINOR CHANGES IN THE WORK

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

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

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

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

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

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

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§ 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 performing the Work.

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

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 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 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

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

§ 9.2 SCHEDULE OF VALUES

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

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten 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, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 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.

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

§ 9.3.2 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

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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.

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

§ 9.4 CERTIFICATES FOR PAYMENT

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

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

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

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

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

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

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the

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Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.6 PROGRESS PAYMENTS

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

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

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

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

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

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

§ 9.7 FAILURE OF PAYMENT

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents 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.

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

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

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

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 1.1.3, 1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 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.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

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

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract

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Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

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

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

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.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to

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

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

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

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in

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whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

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

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance that is not the responsibility of the Contractor as part of its Work 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 lead, asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner 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 furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

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

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

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

§ 10.3.6 If the Contractor is held liable for the cost of remediation of a hazardous material or substance by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred, except to the extent such cost and expense is caused by the Contractor's negligence.

§ 10.4 EMERGENCIES

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's 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.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

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

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

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability listed below.

Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, for two years after Substantial Completion.

- a. Workers' Compensation and Employer's Liability State Statutory, as required by law
Employer's Liability \$1,000,000
- b. Commercial General Liability
\$2,000,000 – Bodily Injury & Property Damage – Each Occurrence
\$4,000,000 – General Aggregate Limit
\$4,000,000 – Completed Operations Aggregate Limit
- c. Automobile Liability
\$1,000,000 – Combined Single Limit
- d. Excess Liability
\$5,000,000 – Bodily Injury & Property Damage Each Occurrence
\$5,000,000 – Annual Aggregate Limit

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\$5,000,000 – Completed Operations Aggregate Limit

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2.

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

§ 11.2 OWNER'S LIABILITY INSURANCE

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

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications, comprising total value for the entire Work of the Project at the site on a replacement cost basis. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by Owner and Contractor, until Substantial Completion. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

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

§ 11.3.1.2 (paragraph deleted)

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

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

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

§ 11.3.2 BOILER AND MACHINERY INSURANCE

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

§ 11.3.3 LOSS OF USE INSURANCE

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

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against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

§ 11.3.4 (paragraph deleted)

§ 11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Contractor shall file with the Owner proof of such insurance.

§ 11.3.7 WAIVERS OF SUBROGATION

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

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

(Paragraphs deleted)

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

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

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

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

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

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§ 12.2 CORRECTION OF WORK**§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 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 an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-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, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2 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.

§ 12.3 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.

ARTICLE 13 MISCELLANEOUS PROVISIONS**§ 13.1 GOVERNING LAW**

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 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.

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If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 13.3 WRITTEN NOTICE

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

§ 13.4 RIGHTS AND REMEDIES

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

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

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

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

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

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

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

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

§ 13.6 INTEREST

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

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§ 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

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

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

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

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

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

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials and equipment thereon to be incorporated into the Project owned by Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and

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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.

§ 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 and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

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

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

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

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

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

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

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

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

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. 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.

§ 15.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect. If the Architect is not serving as the Initial Decision Maker Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

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§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, 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 payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

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

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

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

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

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

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

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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 either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision 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 change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time.

(Paragraph deleted)

§ 15.2.7 In the event of a Claim against the Contractor, the Owner 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 may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 MEDIATION

§ 15.3.1 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, 9.10.5, and 15.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.

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

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

§ 15.4 ARBITRATION

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

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

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

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

§15.4.4 CONSOLIDATION OR JOINDER

§15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.

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Exhibit B
Personnel Rates

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Sections, apply to this Section.
- B. All Work required by these Specific Project Requirements is included in the Subcontract Documents. In case of conflicts between the Specific Project Requirements and other Subcontract Documents, the more stringent requirements shall govern as determined and directed by the Contractor.

1.2 SUMMARY

- A. This Section includes the following:
 - 1. Project Information
 - 2. Allowances
 - 3. Unit Prices
 - 4. Alternates
 - 5. Contract Modification Procedures
 - 6. Payment Procedures
 - 7. Project Management and Coordination
 - 8. Construction Progress Documentation
 - 9. Submittal Procedures
 - 10. Quality Requirements
 - 11. General Requirements for Workmanship
 - 12. General Requirements for Products and Materials
 - 13. Contract Closeout
 - 14. Record Documents
 - 15. Special Project Procedures for Alterations of Existing Facilities and/or Grounds
- B. The attachments to this Section include the following:
 - 1. Attachment A: Electronic Data Release
 - 2. Attachment B: 3D BIM Models Coordination Program

1.3 PROJECT INFORMATION

- A. Work Hours
 - 1. Normal working hours on the Project are Monday through Friday, 7:00 a.m. to 5:00 p.m., local Project time. Contractor may amend work hours as required or necessary to maintain Project schedule or as seasonal and/or site work conditions warrant.
- B. Project Start Up
 - 1. All parties must execute the Agreement before the Subcontractor can move on site to

- begin Work.
2. Provide evidence of insurance meeting the requirements of the Subcontract Documents to Contractor at least seven (7) calendar days before the Subcontractor is scheduled to begin Work and within seven (7) calendar days from the Notice of Award.
 3. If required, submit Performance and Payment Bonds within seven (7) calendar days from the Notice of Award.
 4. Furnish early Project submittals to the Contractor within fifteen (15) calendar days of the Notice to Proceed. No payment application will be accepted until Contractor receives all required information. Early submittal items include:
 - a. A listing of all subcontractors, suppliers, and any tiered subcontractors. If a particular item of work has not been determined, indicate on the listing "TBD" (to be determined) and provide such information to the Contractor immediately after determination.
 - b. A fabrication schedule detailing the fabrication sequence and time required for fabrication and delivery of major materials and equipment.
 - c. A submittal schedule of shop drawings and product submissions showing time for approval, fabrication, and transport.
 - d. An installation schedule, which combines both manpower and time requirements including:
 - 1) Total workdays required to perform the major items of Work broken down into meaningful details as required for scheduling by the Contractor.
 - 2) Estimated weeks required to complete the Work in each of the Subcontractor's major areas of work. Include crew sizes.
- C. Electronic Project Correspondence and Communication
1. Project correspondence, communications and information will be provided electronically. Subcontractors and Suppliers shall have necessary knowledge, technology, hardware, software and internet connectivity to exchange information electronically.
 2. Subcontractors and Suppliers shall provide email addresses for office and field leadership personnel assigned to Project for the purpose of communication and exchanging documents. At minimum, email addresses shall be capable of receiving a 10-megabyte file attachment.
 3. A Project Website will be used for purposes of managing communication and documents during the construction stage.
 4. Subcontractors and Suppliers shall utilize provided online systems to collaborate and input, respond and/or update information as required for jobsite observations and issue tracking and resolution such as safety audits, quality documentation, punch lists and coordination of Cx activities. Use of this software may require administration through field tablet or mobile devices provided by the Subcontractor for associated activities.
- D. Code of Conduct

1. Because this Project may involve working in and around occupied facilities and/or public areas, Subcontractor and all its employees are required to comply with the following:
 - a. Perform their work in a professional manner.
 - b. Do not converse or talk with employees of Owner. All construction related questions are to be directed to Contractor.
 - c. Inappropriate language or gestures, profanity, or lewd conduct are strictly prohibited.
 - d. Tobacco use on the Project site must comply with the Owner's restrictions. If there are no restrictions, tobacco must be kept to a minimum so as to not damage the Project or litter the site. Smoking is restricted to designated areas, if any. Violations of this policy may result in tobacco use being prohibited on the Project site.
 - e. Parking is only allowed in areas designated by Contractor.
2. Violations of this policy could result in immediate dismissal from the site.

1.4 ALLOWANCES

- A. Refer to Division 02 through Division 48 for items of work covered by allowances.
- B. Refer to Scope of Work document for any additional Contractor requested allowances.

1.5 UNIT PRICES

- A. Refer to Division 02 through Division 48 for work requiring the use of unit pricing. Record unit pricing on the Bid Form.
- B. Refer to Scope of Work document for any Contractor requested unit prices. Record this unit pricing on the Scope of Work document and attach it to the Bid Form.

1.6 ALTERNATES

- A. Refer to Division 01, Section "Alternates" for specific requirements regarding alternates. Record alternates on the Bid Form.
- B. Refer to Scope of Work document for any Contractor requested alternates. Record these alternates on the Scope of Work document and attach it to the Bid Form.

1.7 CONTRACT MODIFICATION PROCEDURES

- A. Request for Information (RFI)
 1. Refer to Division 01, Section "Administrative Requirements" for specific requirements regarding RFIs.
 2. If during the construction of the Project, clarification of the documents is required, it shall be brought to the attention of the Contractor.
 3. The Contractor will either provide clarification or forward a Request for Information (RFI) to the Architect. These RFI's shall be dated and sequentially numbered on a form determined by the Contractor. The Contractor will submit RFI's to the Architect for response and will distribute such responses to affected Subcontractors or Suppliers.
 4. A response to an RFI is not an authorization to proceed with work. If a Subcontractor

or Supplier believes that the response changes its Scope of Work, it shall immediately advise the Contractor who will review the response with the Architect and Owner to determine whether a change in the Scope of Work exists.

B. Minor Changes in the Work

1. Prior to proceeding with any work described in an Architect's Supplemental Instructions (ASI), Subcontractors and Suppliers shall confirm that these will not impact their cost or schedule. Proceeding with such work without confirmation will be deemed a waiver of Subcontractor's or Supplier's right to claim additional cost or time associated with the Minor Change in Work.

C. Proposal Request (PR)

1. Should the Owner contemplate making a change in the work, the Architect will issue a Proposal Request (PR) to the Contractor.

D. Change Orders (CO)

1. All PR's will be reviewed and forwarded to the affected Subcontractors and Suppliers for review. Each Subcontractor and Supplier will determine if the PR affects its Scope of Work. If the described change impacts cost and/or time, the Subcontractor and Supplier shall immediately prepare a proposal for submission to the Contractor. The Subcontractor's or Supplier's proposal shall be broken down completely identifying all labor and material quantities. The Contractor will review the pricing with the Owner and Architect to determine if a change order will be issued. Subcontractors and Suppliers are not to proceed with additional work until written authorization has been received.
2. If the Owner determines that a Proposal Request will be accepted, the Contractor will prepare a Change Order (CO) which will be dated and numbered sequentially.
3. The Change Order will describe the change or changes, will refer to the Proposal Request and proposal number, and will be signed by the Contractor.

E. Construction Change Directives (CCD)

1. Construction Change Directives instruct the Contractor to proceed with a change in the work prior to concluding Contract adjustment negotiations.

F. Submission Of Proposals For Change Order - Follow other Subcontract Document requirements if more stringent than the requirements listed in this section.

1. Labor Rate Breakdown

- a. **Base Rate Calculation:** All Subcontractors will be required to substantiate all labor rates (for all skill levels and tradesmen) as actual cost-plus allowable overhead and profit, prior to submitting change order pricing. Breakdowns shall include base labor rate, fringes, union dues, payroll taxes and insurance. Any item not falling into one of these categories will be considered overhead and shall be included in the fee limits listed below.
- b. **Premium on Overtime Rate Calculation:** In the event overtime work is requested by the Contractor (not required by the Subcontract Documents or due to the fault of the Subcontractor), the premium on the overtime rate will be required to be substantiated as actual cost-plus allowable overhead and profit. Breakdowns shall

include half of base labor rate, only the overtime premium portion of any applicable union fringes, and payroll taxes and insurance (excluding workers compensation insurance which is not paid on the premium portion of overtime). Any item not falling into one of these categories will be considered overhead and shall be included in the fee limits listed below.

2. Method of Proposal

- a. Comply with the requirements of this section and all other requirements.
- b. Include a direct reference to the initiating change document in the proposal description. If the request is not linked to a change document, a full and thorough description of the work and the reason for the change order request is required. Change requests not in this format will not be reviewed and/or will be returned as rejected.
- c. Include detail quantities of materials added or eliminated including unit costs, with extend total amounts. If requested, furnish additional information to substantiate quantities.
- d. Itemize applicable taxes, delivery charges, equipment rental (rates and hours), and amounts of trade discounts.
- e. Include costs of labor and supervision (as allowed by contract provisions) directly attributable to the change. Provide crew information including, approved labor rate for each skill level and trade, number of man-hours including estimating program back-up substantiating those hours.
- f. Provide proposal detail and estimate which defines the type or area of work (e.g., Concrete: concrete walls, grade beams, piers, sidewalks, etc.; Drywall: metal studs, rock, finishing, etc.).
- g. Include substantiating back-up from tiered subcontractors and Material Suppliers equal to the requirements of the Subcontractor proposal as described in this section.
- h. Itemize fee separate from the material and labor detail described herein and within limits described in this section.
- i. Include an updated Subcontractor's construction schedule that indicates the effect of the change, including, but not limited to, changes in activity duration, start and finish times, and activity relationship. Use available total float before requesting an extension of the Contract Time.
- j. Review and acceptance of a Subcontractor's price proposal does not constitute a limitation of labor or materials necessary for Subcontractor to complete its Work.

3. Fee Limits

- a. Fee includes all general requirements, all supervision (including project management and general on-site supervision), overhead, and profit.
- b. The following fee percentages shall be used for lump sum pricing and actual cost pricing of additions and deletions to the Work:
 - 1) To Subcontractor for work performed by own forces: not to exceed 10%
 - 2) To Subcontractor for work performed by other than own forces: not to exceed

5%

- 3) To second-tier Subcontractor and/or material Supplier for work performed by its own forces: not to exceed 10%
- 4) To second-tier Subcontractor and/or material Supplier for work performed by other than its own forces: not to exceed 5%

1.8 PAYMENT PROCEDURES

A. Schedule of Values

1. Submit for approval by the Contractor a Schedule of Values following the format of AIA G703 – Application and Certificate of Payment Continuation Sheet within fifteen (15) calendar days following Notice of Award. The Schedule of Values shall list the installed value of the component parts of the Work, broken down in sufficient detail to serve as a basis for computing values for progress payments during construction with total equaling the Subcontract Sum. The Schedule of Values should be broken down by area, building, floor, etc. in sufficient detail to evaluate progress payments. If a Project specific accounting breakdown has been provided, the Schedule of Values shall be broken down appropriately. No payments will be made prior to Contractor's receipt of an approved Schedule of Values. The approved Schedule of Values shall be used by the Subcontractor on all Applications for Payment.

B. Application for Progress Payments

1. At a time consistent with the requirements of this section and the Subcontract Documents, and for each calendar month during the progress of the Work, the Subcontractor shall submit a properly notarized Application for Payment prepared in a manner consistent with the Schedule of Values.
2. The amount shown on the Application for Payment shall be the value of work completed through the last day of the application period and the value of the material/equipment suitably stored in accordance with the Subcontract Documents, less the aggregate of previous payments, and less the retainage as specified in the Subcontract.
3. The form of application for payment shall as provided in Division 00.
4. Application and Certificate for Payment
 - a. Fill in all required information, including that for change orders executed prior to the date of the application.
 - b. Fill in the summary of dollar values to agree with the respective totals indicated on the continuation sheet.
 - c. Execute certificate with the signature of an authorized signer of the firm.
5. Continuation Sheets
 - a. Based on the approved Schedule of Values, fill in dollar values for Previous Application and Complete this Period.
 - b. Based on the Approved Schedule of Values and Work covered by this application for payment, fill in the dollar values for each column of each scheduled line item of work. Round values to nearest dollar, unless directed otherwise.

- c. List each change order item executed prior to the date of application following Approved Schedule of Values. Include change order number, description and agreed cost breakdown level sufficient for evaluating progress of work. If requested by the Contractor, breakdown change order totals in the same details as the original Schedule of Values.

C. Substantiating Data for Progress Payments

1. Include substantiating data required to verify a payment request.

- a. In order to bill for stored materials, provide documentation and adhere to specific procedures as follows:

- 1) Physically mark and identify the stored materials and/or equipment and segregate from and not commingle such goods with other goods held by the Subcontractor or Supplier. Provide photographic evidence to Contractor of said stored materials.
- 2) Submit evidence of insurance coverage on the material and/or equipment while stored at its warehouse or other approved facilities, naming Contractor and the Owner as Additional Insureds.
- 3) Complete and submit a Bill of Sale form endorsed by a corporate officer or owner. The validity of the Bill of Sale is subject to Subcontractor's receipt of payment as referred to therein. A copy of the Bill of Sale is included in Section 00 62 79.10.
- 4) Complete and submit a Non-negotiable Bailment Receipt. A copy of the Non-negotiable Bailment Receipt is included in Section 00 62 79.20.
- 5) Submit supporting documentation for stored material that verifies the amount requested, such as paid invoices. Match the amount requested with amounts indicated on the documentation. Do not include overhead and profit on stored materials.
- 6) Other requirements as may be deemed necessary to protect the interests of the Contractor and Owner.

- b. Applications for Payment shall be accompanied with supporting cost back-up from the Sub-subcontractors and Material Suppliers and Lien Waivers from sub-subcontractors and Material Suppliers associated prior month's application for payment.

- c. When the Contractor finds the Subcontractor's application in proper form and properly progressed, it will be included for payment by Owner within the established payment cycle.

d. Payment Application Documents:

- 1) G702 and G703
- 2) Subcontractor And Supplier Partial Waiver And Affidavit
- 3) Non-negotiable Bailment Receipt (if stored material is being billed)
- 4) Bill of Sale (if stored material is being billed)
- 5) Evidence of Insurance covering the stored material

- 6) Photographic documentation of stored materials
- 7) Other supporting documentation for stored materials such as invoices.

D. Application for Final Payment

1. Submit final Application for Payment following the procedures specified above for progress payments as set forth in the Subcontract Documents.
2. Before submitting a final Application for Payment, the Subcontractor shall submit to the Contractor for review by the Architect, all warranties and guarantees, Record and Information Manuals, As-Built Drawings and Specifications, and other documents required by the Subcontract Documents, and properly turn-over and store specified extra stock and spare parts. Subcontractor shall obtain the signature of the Contractor verifying receipt of the extra stock and spare parts.
3. Properly executed "Subcontractor And Supplier Final Waiver And Affidavit" shall be submitted to the Contractor prior to final payment.

1.9 PROJECT MANAGEMENT AND COORDINATION

A. General Coordination

1. Subcontractor shall coordinate its construction operations with those of other Subcontractors and entities to ensure efficient and orderly installation of each part of the Work. Subcontractor shall coordinate its operations with operations, included in different Sections that depend on each other for proper installation, connection, and operation.
2. Coordinate inspections and ensure items are complete and ready for inspection in advance. Provide notification to appropriate person(s) and agencies for all testing and inspections associated with the Work. Provide "confidence" tests of systems as required prior to formal inspections to ensure adequacy of installed work.

B. Building Information Modeling (BIM) and other Electronic Data

1. The Architect and Contractor may utilize and provide the Subcontractor Building Information Modeling or other electronic data ("Electronic Data") for use in the Subcontractor's work during the Project.
2. The Electronic Data will be provided for informational purposes only. The Electronic Data cannot be used for any other project or purpose other than in connection with this Project.
3. The Electronic Data shall not replace or supersede the record set of the drawings and other Subcontract Documents ("Paper Documents"). In the event of a conflict between the Record Documents and the Electronic Data, the Record Documents shall govern.
4. Prior to receiving any Electronic Data, complete and execute the Electronic Data Release included as Attachment A to this section and/or the Release(s) required by the Design Team.
5. See the attached 3D BIM Models Coordination Program included as Attachment B to this section for requirements.
6. Subcontractor shall pay any fees for electronic files as defined in other Sections.

C. Project Meetings

1. Preconstruction Conference

- a. Contractor will schedule and conduct a preconstruction conference before starting construction, at a time convenient to Owner and Architect.
 - 1) The conference will be conducted to review responsibilities and personnel assignments.
 - 2) Authorized representatives of Owner, Contractor, Architect, and their consultants; Subcontractor(s) and their superintendent; major sub-subcontractors; suppliers; and other concerned parties shall attend the conference. Participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
 - 3) Contractor will discuss items of significance such as administrative items, procedural issues, site usage and requirements, schedule, jobsite rules and regulations, etc.

2. Progress Meetings

- a. Progress Meetings, chaired by the Contractor, will be held regularly, on a weekly or bi-weekly basis as required to support the schedule. Attendance by the Subcontractor's personnel intimately knowledgeable of its work and authorized to make decisions on its behalf is mandatory. At the direction of the Contractor, key Subcontractors, Suppliers, sub-subcontractors and supervisors will be required to provide reports of their activities and participate in coordination and discussions.
- b. The progress meeting provides the Subcontractor an opportunity to discuss any problems or potential problems arising from the Project. Each Subcontractor shall attend progress meetings as requested by the Contractor and shall come prepared to discuss its work status and how it relates to the Project schedule.
- c. The Project schedule will be reviewed at progress meetings. Each Subcontractor is expected to provide the status of shop drawings, material and equipment delivery, job progress and quality control.

3. Pre-Installation Conference

- a. Contractor will conduct pre-installation conferences per Specifications or at its discretion prior to starting new construction activities or those that require coordination with other work.
- b. Installer and representatives of manufacturers and fabricators involved in or affected by the work or its coordination or integration with other materials and installations that have preceded or will follow, shall attend the meeting. All Subcontractors (including field superintendents and/or foremen) performing or directly affected by the work will be required to attend.
- c. Contractor will prepare the meeting agenda. Items for discussion will include progress review of other construction activities and preparations for the work specific to the pre-installation conference. Other subjects that may be discussed include:
 - 1) Clear understanding of material installation means, methods and procedures,

- 2) Clear understanding of contract document requirements,
- 3) Coordination and sequencing of installation among applicable trades,
- 4) Identify instances of detailing which require modification to meet applicable manufacturers or industry standards for installation,
- 5) Confirmation of material compatibility, and
- 6) Confirmation of quality control checklist and agreed-upon frequency for their use.

4. Coordination Meetings

- a. Contractor may conduct additional Project coordination meetings as needed to resolve specific issues or coordinate upcoming work.

5. BIM Coordination Meetings

- a. Contractor shall host BIM coordination meetings as required by this Section. All affected Subcontractor(s) shall perform in accordance with the BIM Execution Plan and BIM Requirements. All Subcontractors whose work impacts or is impacted by such work must attend applicable meetings.
- b. Subcontractors shall comply with the coordination program identified in Attachment B to this Section.

D. Lean Construction

1. This Project will be built using a lean approach. Contractor will implement a number of tools that promote and support a lean philosophy and approach which may include, but are not limited to, the Last Planner® System, 5S, continuous improvement programs, lessons learned (Do Again/Do Better), BIM, prefabrication, 5-Why Root Cause Analysis, and other such tools. Subcontractors will be required to participate in one or more Lean Training Sessions that will introduce and train on Contractor's lean approach and these tools. Subcontractors may be required to implement any and all lean tools on the Project. All field foremen/supervisors actively supervising the Work on this Project will be required to attend the lean meetings on site. The cost and time associated with attending lean training and meetings and implementing lean tools are to be included in Subcontractor's Bid. Lean construction practices are only effective with complete participation by all subcontractors. Subcontractor's full participation is required for the mutual benefit of all Project participants.

2. Last Planner System

- a. This Project practices the Last Planner® System. For each schedule milestone, Contractor will conduct a collaborative, phase pull plan session to build the plan to reach that schedule milestone. All field foremen/supervisors and Project managers for Subcontractors and Suppliers must attend every such session where that Subcontractor or Supplier's Work is implicated.
- b. At least three (3) weeks prior to starting Subcontractor's Scope of Work on the Project, it is mandatory that the Subcontractor's key office and field staff attend weekly planning sessions. Once Subcontractor's Work has commenced, Subcontractor will be required to have its field foreman/supervisor attend the weekly planning meeting to proactively coordinate schedules with the other

subcontractors and suppliers. Planning meetings will be conducted by Contractor's Project superintendent at the jobsite.

- c. Fifteen (15) minute daily stand-up coordination meetings are held on-site. All foremen working on site are required to attend.
- d. Use of the Last Planner system may result in adjustment or advancement of the Project schedule resulting from subcontractor coordination and planning. Subcontractors are to support any adjustments and advancements in the Project schedule as a result of Last Planner with compensatory shifting of manpower and material resources.

1.10 CONSTRUCTION PROGRESS DOCUMENTATION

A. Progress Schedule

1. Contractor will prepare a critical path method (CPM) Project Schedule for the construction work including construction activities, submittals for major components, procurement of materials and equipment, and testing of major building systems and periodically update the progress schedule throughout the Project. A construction milestone schedule has been included in Section 00 31 00. A detailed Project schedule is available at Contractor's office and is available for review.
2. Within (7) calendar days after receipt of Notice to Proceed, each Subcontractor shall submit for approval by Contractor a schedule indicating durations and dates for submittals, procurement and installation of the components included in its Scope of Work. No schedule activity shall exceed 2 weeks in duration (except for procurement related activities).
3. If changes occur in the approved Subcontractor's schedule, the Subcontractor shall provide the Contractor updated schedule information as soon as practical, but no later than (3) calendar days following occurrence of schedule change. If the Contractor determines that schedule changes negatively affect the CPM Project Schedule, the Subcontractor shall prepare schedule recovery plan detailing activities, sequences and timing for bringing its work into alignment with the CPM Project Schedule.
4. The Subcontractor shall substantially complete the work in accordance with the schedule developed by the Contractor.
5. The Subcontractor hereby agrees to commence work under the Contract within seven (7) days after the date of a Notice to Proceed, unless otherwise stipulated in that notice.
6. Completion of the Work: The Subcontractor shall complete its work according to and within time limits included in the CPM Project Schedule and in a manner to not delay work of other Subcontractors.

1.11 SUBMITTAL PROCEDURES

- A. Refer to Division 01, Section "Administrative Requirements" for specific requirements regarding submittals.
- B. Subcontractors shall submit all Shop Drawings, Product Data and Samples ("Submittals") to the Contractor bearing the Subcontractor's stamp indicating conformance to the Subcontract Documents and shall be signed by the Subcontractor's representative.

- C. Subcontractor is to submit the following to the Contractor (unless more are required by Division 01):
 - 1. Shop Drawings - in PDF format (with proper bookmarks) via electronic files or collaborative software (as determined by the Project Team).
 - 2. Product Data - in PDF format (with proper bookmarks) via electronic files or collaborative software (as determined by the Project Team).
 - 3. Samples – Minimum of 3 each of each differing type unless specifically noted as additional required.
 - 4. Coordination Drawings - in PDF format via electronic files or collaborative software (as determined by the Project Team).
- D. Contractor will return to the Subcontractor:
 - 1. Shop Drawings - in PDF format via electronic files or collaborative software.
 - 2. Product Data - in PDF format via electronic files or collaborative software.
 - 3. Samples - 1 each of each differing type.
- E. Forward Submittals to Contractor in a timely fashion for Contractor and Architect’s review to maintain the Project Schedule. If a Submittal requires expediting to maintain the Project Schedule, conspicuously note and communicate a required return date in the Submittal. If other review cycles are identified in the Subcontract Documents, account for those times as well.
- F. If design ASIs, RFIs, bulletins, or any other change in the Work (collectively, "changes") require modifications to Shop Drawings, Subcontractor shall update its Shop Drawings. Such updated Shop Drawings shall become the basis of Subcontractor's as-built drawings, per the requirements identified below.

1.12 QUALITY REQUIREMENTS

- A. Refer to the Division 01 Section "Quality Requirements" and individual Specification Sections for specific requirements regarding quality control and assurance.
- B. Refer to the Division 01 Section “Code-Required Special Inspections” and individual Specification Sections for specific requirements regarding testing and inspections.
- C. Advise the Contractor's on-site field superintendent of all scheduled tests with a minimum of two (2) business days advanced notice.
- D. The Subcontractor’s quality control representative shall review Drawings, procurement documents, and contracts to ensure that the technical information provided and all work performed is in accordance with the latest revision of the Subcontract Documents. These documents shall be updated to reflect all changes made through Addenda, Change Orders, and Requests for Information.
- E. The Subcontractor’s quality control representative shall perform an on-site inspection upon receipt of all materials, equipment, and supplies. Items that are damaged or not in conformance with the respective Submittals, quality standards, and Subcontract Documents will be identified and segregated from accepted items. Items thus identified will not be incorporated into the Work until corrective action, acceptable to the Contractor and Architect is completed.

- F. The Subcontractor is responsible for the quality of the work performed by its work force and sub-subcontractors, as well as the quality of the material, equipment, and supplies furnished by the Subcontractor to be incorporated into the Work. Subcontractor shall designate a quality control representative, who will be on site at all times when Work is in progress.
- G. As determined by the Contractor, the Subcontractor shall submit a quality control plan for review and approval before Subcontractor can commence its Work. The plan shall describe measurements, inspections, and test required to ensure conformance with Project quality requirements. The plan shall include quality control inspection checklist with the anticipated frequency of field verification. Subcontractor shall upload such checklist to the Project's on-line collaboration software.

1.13 GENERAL REQUIREMENTS FOR WORKMANSHIP

- A. Manufacturer's requirements shall be strictly followed for storage, preparation, installation, cleaning, protecting, and testing of all products and materials except where specific requirements included in appropriate Sections in Division 01 through Division 49 exceed those requirements. Subcontractor shall submit such requirements to the Architect for review and approval before beginning the Work. Where conflicts between manufacturer's requirements and Subcontract Documents occur, Subcontractor shall notify Contractor and request resolution prior to proceeding.
- B. The Subcontractor shall inspect the jobsite, coordinate with others, and field verify dimensions where applicable before fabricating products or material. Pay special attention to field verifications necessary where new Work meets existing conditions to ensure accurate fabrication.
- C. Follow manufacturer's requirements and industry standards in regard to the effect of temperature, UV exposure, moisture, and humidity on products and materials. The approved submittal for manufacturer's installation instructions shall be available and on-site during construction.
- D. Install materials and equipment plumb, level, and true, with uniform joints and edge conditions, tight seams, and neatly fitting adjoining materials, unless specifically shown otherwise.
- E. Install materials and equipment as indicated in the Drawings and Specifications. If field verification is not required and dimensional information is not indicated, Subcontractor shall submit an RFI to the Contractor, requesting missing dimensional information.
- F. Clean materials and equipment in a manner so as to not damage the finish of installed materials.
- G. Protect installed equipment and material from damage by Subcontractor or others, with labels left intact until final cleaning.

1.14 GENERAL REQUIREMENTS FOR PRODUCTS AND MATERIALS

- A. Refer to the Division 01 Section "Product Requirements" for specific requirements regarding product selection.
- B. Refer to the Division 01 Section "Substitution Procedures" for specific requirements regarding substitutions.

1.15 CONTRACT CLOSEOUT

- A. Refer to the Division 01 Section “Execution and Closeout Requirements” for specific requirements regarding Project closeout.
- B. Refer to the Division 01 Section “Closeout Submittals” for specific requirements regarding warranties.
- C. Refer to the Division 01 Section "Closeout Submittals" for specific requirements regarding Operation and Maintenance Manuals.
- D. Refer to the Division 01 Section "Execution and Closeout Requirements" for specific requirements regarding required Owner training.

1.16 RECORD DOCUMENTS

- A. Refer to the Division 01 Section “Submittal Procedures” for specific requirements regarding submittals.
- B. Refer to the Division 01 Section "Closeout Submittals" for specific requirements for record documents including as-built drawings.
- C. Subcontractor shall maintain at the Project site for the Contractor’s review, current versions of the following:
 - 1. Drawings
 - 2. Specifications
 - 3. Addenda
 - 4. Change Orders
 - 5. Other Change Directives
 - 6. Approved Submittals, including but not limited to: Shop Drawings, Product Data, and Samples
 - 7. Field Test Reports
 - 8. Meeting Notes
- D. Subcontractor shall provide electronic redline Drawings, Specifications, submittals, etc. with “As-Built” information and submit to the Contractor in PDF format via electronic files when the Subcontractor is substantially complete with its Work. This is in addition to any paper copies required by the Subcontract Documents.

1.17 SPECIAL PROJECT PROCEDURES FOR ALTERATIONS OF EXISTING FACILITIES AND/OR GROUNDS

- A. Reference Attachment C, if applicable, (and any additional Exhibits) for specific requirements regarding special procedures for alterations of existing facilities and/or grounds.

END OF SECTION

Project: **Dunn County Public Safety Center & Courthouse Remodel**

Owner: **DUNN COUNTY ND**

Architect/Engineer: **JOHNSON LAFFEN GALLOWAY ARCHITECTS LTD**

Contractor: **J.E. Dunn Construction Company**

Subcontractor: _____

1. Subcontractor has requested and Contractor has agreed to provide copies of electronic data files, which may include building information modeling (BIM) data and Drawings (collectively, "Electronic Files") for the Project.
2. In consideration of Contractor providing a copy of the Electronic Files to Subcontractor, Subcontractor agrees to the following:
 - 2.1 Subcontractor acknowledges the Electronic Files shall not replace or supersede the record hardcopy set of the Drawings and other Contract Documents ("Paper Documents"). If a conflict between the Paper Documents and the Electronic Files occurs, the Paper Documents shall govern. Subcontractor shall be deemed to have used the Paper Documents in performing its Work.
 - 2.2 Subcontractor may use the Electronic Files for informational purposes only, agrees to make no modifications to the Electronic Files, and shall return all copies of the Electronic Files, if requested. Subcontractor shall not use or attempt to use the Electronic Files for any other project or any purpose other than in connection with the Project.
 - 2.3 Subcontractor agrees to defend, indemnify, and hold the Owner, Architect/Engineer, and Contractor harmless in connection with any defects contained in the Electronic Files and any claims arising out of the use of the Electronic Files.
 - 2.4 If Contractor has executed a release agreement with a design professional (the "Design Professional Release") affecting the documents that will be provided under this Release, Subcontractor shall be bound to Contractor by the terms of this Release and those of the Design Professional Release, which shall be attached as an exhibit to this Release or otherwise made available to Subcontractor, and shall assume toward Contractor all the obligations and responsibilities which Contractor, by the Design Professional Release, assumes toward the design professional, insofar as applicable to this Subcontractor.

Accepted and agreed:

Authorized Signature:

Name:

Title:

Date:

END OF SECTION

PART 1 - GENERAL

1.1 SUMMARY

- A. In general, the scope of work under this coordination program is to create a technically accurate and detailed BIM/3D computer model of the architectural, structural, mechanical, plumbing, physical security, fire protection, civil, electrical, equipment suppliers, and other pertinent scopes of the Project identified herein.
- B. Subcontractor will participate in the creation of BIM content for use in construction coordination activities. Models will be used to improve prefabrication opportunities, construction coordination, fabrication, and installation of systems.
- C. Development of a Project-specific BIM Execution Plan, Level of Development ("LOD") Specification, and Responsibility Matrix will occur within thirty (30) days of Notice to Proceed from Owner. Subcontractor must participate in routine meetings to develop and agree upon the Plan. Once finalized, the BIM Execution Plan will become a part of the Subcontract or Contract Documents. The BIM Execution Plan may be modified during the Project to ensure Project goals and objectives are met. Unless otherwise directed by Contractor in writing, no modifications to the Plan will be allowed without approval from all parties impacted by proposed changes to the Plan.

1.2 COORDINATION PROGRAM REQUIREMENTS

- A. Subcontractor must attend routine coordination meetings throughout construction and provide input and subject matter expertise related to its Scope of Work.
- B. Subcontractor must maintain progress in the creation of its model so that Subcontractor does not impact the construction schedule and milestones.
- C. Subcontractor must utilize software that is compatible with Autodesk Construction Cloud (ACC).
- D. The Project will utilize ACC to host design Revit model development and coordination. Subcontractor must have the appropriate software license(s) to work collaboratively with the Project team.
- E. Subcontractor must have designated "in house" BIM technical resources. Such BIM resources must have the authority to make routing and coordination decisions for systems related to Subcontractor's Scope of Work. If Subcontractor's BIM resources do not have authority to make such decisions, a project manager or field supervision must attend scheduled coordination meetings.
- F. Subcontractor models shall be developed in such a way that streamlines the prefabrication modeling process, shop drawing creation, construction coordination, fabrication, and installation of systems.

1.3 FILE SHARING

- A. Requirements for electronic Project communication and correspondence is further defined in 00 73 00 Specific Project Requirements.
- B. Construction coordination will occur using ACC for clash detection. Subcontractor will be granted access to the Contractor's ACC site.
- C. The Contractor's Information Manager will define the file structure within ACC, and

Subcontractor shall ensure each file is uploaded in the correct location. If a BIM Execution Plan is required, the folder structure will be defined in the Plan. If a BIM Execution Plan is not required, the folder structure will be defined in the Project's BIM kick-off meeting.

1.4 MODEL SET UP

- A. Project file naming conventions will be defined upon development of the BIM Execution Plan. If a BIM Execution Plan is not required, file naming conventions will be defined in the Project's BIM kick-off meeting.
- B. Subcontractor's model coordinate systems will align with design models coordinate system.
- C. Subcontractor must align its models to the site control coordinates for field layout.
- D. Subcontractor must model all components in its contracted Scope of Work. Further development of model objects will be defined in the creation of the Project's BIM Execution Plan, Roles and Responsibility matrix, and LOD Specification. If there is a discrepancy in LOD requirements between documents, whichever document is of greater detail will govern.
- E. Subcontractor shall purge all non-essential 2D information from its models used during construction coordination.

1.5 MODEL LEVEL OF DEVELOPMENT (LOD)

- A. Subcontractor must model all components of its contracted Scope of Work. Subcontractor is fully responsible for field coordinating all items not included in the Subcontractor's model. Subcontractor will field coordinate in such a way that it does not impact systems that are coordinated and included in the coordination model.
- B. LOD Definitions. LOD definitions are derived from AGC BIM Forum Level of Development Specification. If current definitions differ from what is stated in this document, current definitions supersede the definitions in this document.
 - 1. LOD 100 – The Model Element may be graphically represented in the Model with a symbol or other generic representation but does not satisfy the requirements for LOD 200. Information related to the Model element (i.e., cost per square foot, tonnage of HVAC, etc.) can be derived from other Model Elements. LOD 100 elements are not geometric representations. Examples are information attached to other Model elements or symbols showing the existence of a component but not its shape, size, or precise location. Any information derived from LOD 100 elements must be considered approximate.
 - 2. LOD 200 – The Model Element is graphically represented within the Model as a generic system, object, or assembly with approximate quantities, size, location, and orientation. Non-graphic information may also be attached to the Model Element. At this LOD, elements are generic placeholders. They may be recognizable as the components they represent, or they may be volumes for space reservation. Any information derived from LOD 200 elements must be considered approximate.
 - 3. LOD 300 – The Model Element is graphically represented within the Model as a specific system, object, or assembly in terms of quantity, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element. The

- quantity, size, shape, location, and orientation of the element as designed can be measured directly from the Model without referring to non-modeled information such as notes or dimension callouts. The project origin is defined, and the element is located accurately with respect to the Project origin.
4. LOD 350 – The Model Element is graphically represented within the Model as a specific system, object, or assembly in terms of size, shape, location, orientation, and interferences with other building systems. Non-graphic information may also be attached to the Model. Parts necessary for coordination of the element with nearby or attached elements are modeled. These parts will include such items as supports and connections. The quantity, size, shape, location, and orientation of the element as designed can be measured directly from the Model without referring to the non-modeled information such as notes or dimension callouts.
 5. LOD 400 – The Model Element is graphically represented within the Model as a specific system, object, or assembly in terms of size, shape, location, quantity, and orientation with detailing, fabrication, assembly, and installation information. Non-graphic information may also be attached to the Model Element. An LOD 400 element is modeled at sufficient detail and accuracy for fabrication of the represented component. The quantity, size, shape, location, and orientation of the element as designed can be measured directly from the Model without referring to non-modeled information such as notes and dimension callouts.
- C. Design Model elements (Architectural and Structural) will be modeled at LOD 300 or 350.
- D. Construction Model elements will be modeled at LOD 400.
- E. If a Project BIM Execution Plan is required, Model LOD will be further defined in development of the BIM Execution Plan and LOD Specification.

1.6 CONSTRUCTION COORDINATION PROCESS

- A. The construction coordination process helps to identify conflicts between system models to ensure accurate spatial coordination, reduce field re-work, increase offsite fabrication, and facilitate post-construction assess for maintenance. The construction coordination process never transfers responsibilities stated in the contract. Subcontractor must maintain design intent and performance of the systems as specified in the Subcontract Documents and take no liberties in modifying design.
- B. Contractor uses ACC software to identify clash items between design and Subcontractor models.
- C. Subcontractor must upload models to the Contractor’s ACC site at least twenty-four (24) hours before scheduled coordination meetings.
- D. The sequence of coordination may not coincide with overall construction sequence. In areas of high priority, or for long lead items, the Subcontractor must provide model content prior to approved submittals.
- E. Subcontractor must provide Submittals for items that will be involved in the BIM coordination process before the start of coordination in each area.
- F. Each clash item identified in the coordination meetings will be “assigned” to the Subcontractor responsible for modifying its model to resolve the conflict. All “assigned”

clashes are to be resolved prior to the next coordination meeting.

- G. At the completion of coordination in each area, and when all clashes are resolved, each Subcontractor will ensure all metadata required by the LOD and related to its model (if any) is included and “sign-off” on the completed area, per the attached 00 73 00.B, Attachment B-1. Model sign-off will be at the discretion of the Contractor’s model manager. By signing off on the model, Subcontractor agrees to abide by the means and methods/routing associated with the model and comply with Subcontract Documents and applicable law, including code.
- H. On the date of Model sign-off, Contractor will create a published Navisworks file based on the signed-off Model of the same date. The signed-off model may include content for other areas outside of the current sign-off area. Those other areas will be signed off separately.
- I. If design ASIs, RFIs, bulletins, or any other change in the Work (collectively, "changes") require modifications to the signed-off Model, affected subcontractors shall first participate in additional coordination meetings with Contractor to determine whether any conflicts or clashes will result. If conflicts or clashes will result, the affected subcontractors shall work together to resolve such conflicts or clashes. If no conflicts or clashes will result or once any conflicts or clashes are resolved in coordination meetings, then each affected subcontractor shall update, as necessary, their respective Shop Drawings (See Front End Section 00 73 00, at 1.11) and models. After such updates occur, all subcontractors associated with the original signed-off Model shall sign off on such updated Model, and such updated Model shall become the new signed-off Model, upon which all Work is performed.

1.7 CONSTRUCTION COORDINATION SCHEDULE

- A. A coordination schedule will be produced that includes agreed upon “Sign-Off” dates for each area of coordination. The coordination schedule will have a direct correlation with the Contractor’s construction schedule.

1.8 MODEL AUTHORS

- A. Architectural – by Architect
- B. Structure – by Structural Engineer and Steel Subcontractor
- C. Mechanical – by Mechanical Engineer and Mechanical Subcontractor
- D. Plumbing – by Plumbing Engineer and Plumbing Subcontractor
- E. Electrical – by Electrical Engineer and Electrical Subcontractor
- F. Low Voltage – by Low voltage Designer and Low Voltage Subcontractor
- G. Fire Protection – by Fire Protection Subcontractor
- H. Specialty Subcontractor/Equipment – by Specialty Subcontractor/Equipment Supplier

1.9 FINAL COORDINATION MODEL

- A. The BIM shall extend to five feet beyond the exterior walls of the building plan. Vertically, the model shall extend from the lowest extent of the foundation or lowest underground utility, whichever is greater, and up through roof including roof-top mounted equipment. Civil and Construction Site Utilities models will begin from five

foot beyond the exterior walls of the building and extend to the furthest extent site modifications and tie-in locations included in the Subcontract Documents.

- B. All model content and routing shall align with design criteria and Specifications and shall consider means and methods, constructability, prefabrication strategy, code requirements, and design performance criteria.

1.10 DESIGN MODEL ELEMENTS

- A. At a minimum, model objects listed will be included in the development of models.

1. Architectural

- a. Interior and exterior walls systems
- b. Interior and exterior doors, including door swings
- c. Interior and exterior window and window systems
- d. Louvers
- e. Casework
- f. Roof and roof slopes
- g. Floors
- h. Ramps, stairs, and railings
- i. Ceilings and soffits, including overall thickness, elevation changes, and termination points
- j. Fixed furnishings and equipment
- k. Architectural specialties
- l. Elevators and escalators
- m. Plumbing fixtures/toilet partitions
- n. Coverings and finishes

2. Structural – Concrete and Steel

- a. Footings and foundations (caissons, piles, pile caps, footings, grade beams)
- b. Cast-in-place concrete walls (foundation, shear, bearing, pit walls, elevator core, stair towers)
- c. Concrete beams (include slope where required)
- d. Concrete columns
- e. Structural precast concrete
- f. Slab edges
- g. Elevated structural decks, including openings (include slope where required)
- h. Pits (elevator, dock leveler, sump, etc.)
- i. Primary and secondary structural steel members
- j. Metal and concrete decks as the overall thickness of the slab

1.11 CONSTRUCTION MODEL ELEMENTS

- A. Subcontractor must verify local code requirements related to its Scope of Work.
- B. Note: Structural steel design model elements will be replaced with fabrication steel models provided by the structural steel Subcontractor. Steel fabrication models will be LOD 400. If the Project is designed using a concrete structure sleeves, openings and penetrations, at a minimum, will be added to the design model for purposes of construction coordination.
 - 1. Structural Steel (Division 5)
 - a. Primary and secondary structural steel members (columns, beams, trusses, joists, braces, x-bracing, gusset plates, braces, equipment supports, kickers, steel stairs)
 - b. Other structural elements including, but not limited to:
 - 1) Member slope
 - 2) Embeds
 - 3) Miscellaneous steel
 - 4) Anchor bolts
 - 5) Openings and penetrations
 - c. Metal and concrete decks as the overall thickness of the slab
 - 2. HVAC (Division 23)
 - a. Duct runs, fittings, transitions, terminations, and connections
 - b. All hanger and support systems
 - c. Mechanical and air handling equipment
 - d. HVAC equipment to overall height, width, and depth as specified in accordance with design specified equipment
 - e. Housekeeping pads (overall size, thickness, and location)
 - f. HVAC piping, fittings, transitions, terminations, and connection points
 - g. Grilles, registers, and diffusers
 - h. Fire and smoke dampers, including indicating service access requirements (e.g. access panel) if not readily accessible
 - i. Duct balance dampers and model service access zone requirements
 - j. Multi-trade overhead MEP rack structure (if applicable)
 - 3. High and Low Voltage Electrical (Divisions 26, 27, 28)
 - a. Conduit routing and raceways
 - b. Light fixtures (location, size, and coordination with reflected ceiling plans)
 - c. Power feeds to equipment and switch gear to overall height, width, and depth in accordance with design specified equipment
 - d. Cable tray

- e. All hanger and support systems
 - f. Electrical required for HVAC and plumbing equipment
 - g. Modeling switches, outlets, data ports, and similar items where coordination with architectural furniture, fixtures, and equipment or interior elevations is required
 - h. Duct banks to actual size, location, and elevation
 - i. “No-fly Zones” above panels
4. Plumbing/Piping (Division 22)
- a. Pipe routing, fittings, terminations, and connection points
 - b. All hanger and support systems
 - c. Pipe slope
 - d. Plumbing equipment to overall height, width, and depth in accordance with design specified equipment
 - e. Valves and service access, including chain guides
 - f. Drip legs, drainpipes, blow down valves, and cleanouts
 - g. Underground piping (if applicable)
5. Fire Protection Sprinkler and Alarm (Division 21)
- a. All components of fire protection system, including but not limited to piping, valves, fire pump, and sprinkler heads
 - b. All hanger and support systems
 - c. Any access zone requirements (shown as solids)
 - d. “No-fly Zones” above control panels
6. Civil & Site Utilities (Division 33)
- a. Utilities one and a half inches (1-1/2”) in diameter or greater up to within five feet (5’-0”) of building perimeter
 - b. Vaults, manholes, catch basins, tanks, underground storage containers, and other underground structures
 - c. Electrical duct banks
 - d. Bundled conduit and piping
 - e. Light poles and bases
 - f. Bollards with foundations
 - g. Backflow preventers and control valves
 - h. Site structures
 - i. Fire hydrants
 - j. Storm water management structures, pump stations, manholes and piping
 - k. Fuel systems and piping

- 1. Topography
 - m. Asphalt and concrete paving (roads, parking lots, drives, sidewalks, curbs, gutters)
- 7. Special Construction (Division 13) (e.g., Swimming Pools or other specialty systems)
 - a. Plumbing, piping, and equipment to the correct size
 - b. Pipe slope
 - c. Plumbing equipment to its overall height, width, and depth in accordance with design specified equipment
 - d. Valves and service access, including chain guides
 - e. Drip legs, drainpipes, blow down valves, and cleanouts
 - f. Underground piping (if applicable)
- 8. Pneumatic Tubing (if applicable)
 - a. Piping, including accurate radius or pipe bends, and equipment
- C. Equipment Provided by Others (including Owner furnished/Owner installed (OFOI) and/or Owner furnished/Contractor installed (OFCI))
 - 1. If Subcontractor's Scope of Work connects to equipment provided by others, Subcontractor must coordinate layout and access to this equipment as noted on the submittals and shop drawings. Where equipment submittals are not available, or equipment is unknown at the time of coordination, Subcontractor will work with the Contractor to establish access and installation zones that will be included in the coordination model.
 - 2. Equipment locations will be coordinated with architectural layout.

1.12 SHOP DRAWINGS & SUBMITTALS (IF APPLICABLE)

- A. Coordination Models will be submitted for information only. Subcontractor must submit a separate set of Shop Drawings derived directly from its construction model and its Scope of Work.
- B. Subcontractor shall use its model to support layout of systems in the field. Field install tolerances are to be within one inch (1") of the final coordinated, signed-off Model. If Subcontractor fails to install its Work within such tolerance, Contractor reserves the right to require Subcontractor to relocate any of Subcontractor's components not installed per the signed-off Model and tolerances at Subcontractor's own expense, and/or reimburse Contractor for any resultant damages caused thereby.
- C. If there is a Project prefabrication strategy, Subcontractor must submit Shop Drawings that align with prefabrication strategy and components.
- D. Subcontractor's Shop Drawings shall include prefabrication component unique identifier, plans, sections, axonometric views, dimensions, and annotations.

1.13 AS-BUILT MODEL REQUIREMENTS

- A. Subcontractor must update its coordination models with as-built conditions throughout the construction phases. Subcontractor shall not wait until the end of the Project to make final updates.

- B. Subcontractor As-Built model tolerances shall be within one inch (1”) of the final installed condition.
- C. Models updated with as-built conditions shall be posted to ACC within forty-eight (48) hours of changes to the final coordination model.

1.14 DIGITAL ASSET MANAGEMENT

- A. This section outlines the requirements for tracking digital asset data within the Revit model elements.
- B. Asset data will be generated throughout the Project life cycle by more than one author. When an entity adds a new model element, that entity is also responsible for including the required asset parameters and data within the model element prior to execution of the Work.
- C. The original model author will be responsible for updating the asset data through the Project to ensure the model reflects the correct data asset information. Waiting until the end of the Project is prohibited. Refer to the Owner's BIM Requirements and/or BIM Execution Plan for clarification on what data assets, parameters, and model objects are required for this Project.

1.15 DIGITAL ASSET QUALITY ASSURANCE

- A. The goal of digital asset quality assurance review is to provide clarification on correct or incorrect information within the model and the final deliverables.
- B. A model review will be performed by Contractor.

END OF SECTION



Model Coordination Sign-Off

[Project Name]

J.E. Dunn Project No. []

Sign-Off Model Name: []

Sign-Off [Zone OR Area Description]: []

TEMPLATE COMMENT: Describe area being signed off by zone (with Parameter, as applicable) or via gridlines. You may add an image of the specific section of the floor plan, highlighted to indicate the sign-off area.

Sign-Off Date: []

Drawing Set: []

This Model Coordination Sign-Off incorporates by reference all the requirements of the Subcontract/Contract Documents, including, but not limited to, **Front End Document Section 00 73 00.B, Attachment B**. Failure of a party signing below to abide by those requirements will result in Contractor reserving the right to assess all available damages, including but not limited to rework, delay costs, increased general conditions, acceleration of follow-on trades, or any other costs arising out of that failure.

Exclusions:

The ASIs, RFIs, bulletins, or any other change in the Work (collectively, “changes”) or other items listed below are not included in this Sign-Off. Excluded content will be coordinated and modeled in a subsequently signed-off Model.

ITEM	DESCRIPTION	REASON FOR EXCLUSION

Sign-Off:

SCOPE/SYSTEM MODEL FILENAME	COMPANY	AUTHORIZED SIGNATURE

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. The Owner will occupy the premises during part or all of the construction period, with the exception of areas under construction. Subcontractors shall cooperate with Owner during construction operations to minimize conflicts and interference with Owner's operations.
- B. Section includes administrative and procedural requirements for working in or around an existing facility, including the following:
 - 1. Method of Procedures (MOPs)
 - 2. Site, Facility and Access Considerations
 - 3. Interim Life Safety Measures
- C. Related Sections:
 - 1. Division 00 and 01 Section "Temporary Facilities" for additional requirements regarding temporary facilities.
 - 2. Division 00 Section "Construction Indoor Air Quality" for additional requirements regarding indoor air quality.

1.3 DEFINITIONS

- A. Interim Life Safety Measures (ILSM) are a series of administrative actions required to be taken to temporarily compensate for the hazards posed by existing Life Safety Code (LSC) deficiencies or construction activities.
- B. Building Life Safety System: the combination of individual Life safety features which maintain the compliance of the building with NFPA 101 Life Safety Code.
- C. Risk Assessment: An evaluation of the effect any construction, renovation or alteration activities will have on the Building Life Safety System and the required measures to insure continued and equivalent protection to the building occupants during such activities.
- D. Hot Work Permits: Permits requested by the project representative allowing work activities in buildings involving the use of possible ignition sources (i.e. welding, cutting, soldering etc.). Permits must be obtained before the work starts and shall be posted at the site of work.
- E. Fire Watch: A method used to monitor an area for excessive combustible or flammable material build-up and for early detection of fires and potential ignition sources. A person (police, contractor, EHS) may be specifically assigned to provide a fire watch by observing ongoing hot work or perform a periodic visual check of the work site, floor, or entire or entire building during periods where a Life Safety Feature is impaired.
- F. MOP (Method of Procedure): Step by step sequence for performing a certain task. MOP details steps, tasks, responsibilities, approvals, contingency plans and timing where

heightened planning, scheduling, and communication are essential to execute work where there is little tolerance for error.

1.4 SUBMITTALS

- A. Method of Procedures – Submit MOPs in accordance with the requirements defined within this Section.

PART 2 - PRODUCTS

2.1 MATERIALS AND EQUIPMENT

- A. Sheet Plastic: Fire retardant polystyrene, 6-mil thickness.
- B. Barrier Doors: Solid core wood doors in metal frame, painted.
- C. Exhaust Hoses: Heavy duty, flexible plastic steel reinforced, ventilation blower hose.
- D. Walk-off Mats
 - 1. Standard walk off mat and Hudson sprayer.
 - 2. Adhesive walk-off mats: Minimum size of 24" x 36".
- E. Disinfectant: Facility approved disinfectant.

PART 3 - EXECUTION

3.1 METHOD OF PROCEDURE (MOP)

- A. Purpose: Methods of Procedure (MOPs) are measures put in place to analyze potential risk and protect the safety of staff, clients, contractors and active processes by coordinating a safe work plan.
- B. Application: MOPs should be implemented when a work activity interfaces with or has any potential to interface with critical operations. MOPs should be specific to the Scope of Work and clearly outline all associated risks and procedures.
- C. Responsibility: As detailed within this Section.
- D. General:
 - 1. In addition to Contractor's Processes and Procedures, comply with Owner's processes, requirements and approvals for all work within or affecting spaces or systems occupied or utilized by Owner.
 - 2. MOP development and implementation process
 - a. MOP Request Form – When a facility specific form is not required by the Client, the MOP form included in this Section as Attachment C, Exhibit 1 shall be utilized.
 - b. MOP Scheduling – MOPs have strict timelines in which they must be submitted, reviewed, revised, and executed. MOPs shall be submitted for approval no less than 2 weeks prior to planned interruption.
 - c. MOP Development - Each subcontractor is required to fill out a MOP request form for each activity identified by the Contractor.
 - d. MOP Review - Adequate time shall be included to account for Contractor review time prior to submission to the Owner. For complex procedures, coordination meetings may be required amongst multiple trades and/or the Owner. The meeting

shall include a risk assessment of each procedure and documentation of the duration of each task included in the procedure.

- e. MOP Implementation – Approval of the MOP must be received from the Owner prior to the start of the MOP. A kickoff meeting will be held with all parties in attendance.

3.2 SITE, FACILITY AND ACCESS CONSIDERATIONS

A. Purpose: To establish site and facility access guidelines and procedures for project areas that are occupied or utilized by Owner during construction.

B. Application: All Work affecting or probable to effect the Project or facilities areas that are occupied or utilized by Owner during construction.

C. Responsibility:

1. All Subcontractors, Suppliers, and Vendors are required to follow the requirements of this Section and any additional requirements provided by the Owner.
2. If the Subcontractor is working outside the designated “construction area” as defined by the temporary walled areas under the control of Contractor of any given phase, the affecting Subcontractor shall be responsible for any removal, cutting, patching replacing of finishes to install their work. This would include, but not be limited to, removal and/or replacement of ceilings, covering and cleaning existing furniture and/or equipment, cutting and patching of walls and finishes for in-wall rough in, cutting, trenching, concrete placement and/or floor finishes of trenches, etc. all outside of the defined “construction area”.

D. General:

1. Access:

a. Designated Entry and Exits

- 1) Unauthorized personnel will not be allowed to enter the construction zone.
- 2) Entry and exits will be identified by the Contractor.
- 3) Entry and exits will remain usable or alternates will be provided and clearly marked.
- 4) Construction workers will always have escape facilities.
- 5) Only designated elevators shall be used during scheduled times.

b. Walkways, Roadways

- 1) Walkways and roadways affected by construction (used by guests or employees) must always remain passable.
- 2) If an area is not accessible, signage shall be posted redirecting traffic flow.

c. Physically Disability Accessibility: Access shall always be maintained to the facilities.

2. Fire Prevention Requirements:

- a. All automatic fire detection and suppression systems shall remain operable unless there is no alternative but to temporarily disable them. Before systems may be

disabled, the Contractor and subcontractor(s) shall provide the Owner a 2-week notice.

- b. All barriers shall meet fire and/or smoke ratings as required including when penetrating existing rated assemblies. Reference other Sections for other requirements for barrier construction.
3. Barrier Wall Integrity: Barrier walls shall be dust proof with airtight seals and constructed as described in Division 00, Section 00 73 00.
4. Environmental Control:
 - a. Review directional airflow requirements (in accordance with industry standards) prior to developing plan to isolate HVAC system.
 - b. Isolate the HVAC system from occupied portions of the facility, if possible.
 - c. Construction zone air shall be exhausted to the outside. Discharge point shall be located away from other building fresh air intakes and openings to prevent reintroduction of exhausted air into building. Assure adequate supply make-up air to AHU.
 - d. If exhaust to outside is not possible, filter supply and exhaust air with high efficiency filters rated 95% or greater. Maintain regular inspection and temporary filter changes to protect HVAC system, equipment, and permanent AHU filters.
 - e. Block off existing ventilation ducts within the construction zone.
 - f. Utilize filter media on all diffusers and grills (supply and return) including existing systems when required.
5. Cleaning and Disposal:
 - a. Trash and demolition debris transported through occupied areas must be transported in covered carts utilizing approved transport routes. Cart wheel shall be cleaned prior to exiting the construction zone.
 - b. Trash and demolition chutes shall be sealed when not in use. Spray chutes and dumpsters with water as required to provide dust control.
 - c. Maintain housekeeping on each side of doors transitioning from construction zone to occupied areas providing a clean and unobstructed path of travel by removing debris and mopping as required.
6. At Work Completion:
 - a. Remove temporary barrier walls within temporary dust enclosures to prevent transfer of dust and debris to completed work and occupied areas. Thoroughly clean all surfaces within temporary dust enclosure prior to removal.
 - b. Flush water lines prior to turning over construction zone.
 - c. Remove temporary modifications to HVAC system and restore to normal operation. This includes, but is not limited to, removal of temporary ductwork modifications, temporary filters, temporary controls, cleaning of contaminated ductwork, cleaning of internal surfaces of AHU's and replacement of permanent AHU filters.
7. Off-hour Work requirements: The following, at a minimum, may require Work to be

completed at hours that differ from the Project's stated work hours.

- a. Off-hour Work for shutdowns, tie-ins, and switchovers of facility systems as necessary to avoid impacts to the functioning facility.
- b. Off-hour Work for Work in or adjacent to occupied spaces as necessary to avoid impacts to the functioning facility. Work includes, but is not limited to, activities such as above ceiling rough-in (below floor of renovated spaces), corridors, egress paths, driveways and/or entrances, sensitive healthcare spaces, spaces sensitive to noise and vibration, other project specific.
- c. Off-hour Work to install, bypass, reroute existing M/E/P/FP (Mechanical/Electrical/Plumbing/Fire Protection) existing or new systems if required for temporary or phased work to keep adjacent or affected facility areas in operation.
- d. Off-hour Work as required for transition assistance, relocation of existing equipment, and final connection and/or move activities and the end of or between phases.

3.3 INTERIM LIFE SAFETY MEASURES

- A. Purpose: Implementation of Interim Life Safety Measures (ILSM) is required in or adjacent to all construction areas and throughout buildings with existing life safety code deficiencies. ILSM apply to all personnel, including construction workers. ILSM will be maintained and enforced throughout the Project duration.
- B. Application: ILSM apply to all projects that include areas occupied or utilized by Owner during performance of construction work.
- C. Responsibility:
 1. Reference Implementation of Interim Life Safety Measures (ILSM) in this section for work that occurs within construction limits.
- D. General:
 1. All subcontractors, material suppliers, vendors, or agents shall be bound by the requirements of the Owner's policies and procedures in place at the time of bid for interim life safety measures. Copies of the policy (when applicable) are available upon request.
- E. Implementation of Interim Life Safety Measures (Construction Phase): These requirements address the safety practices that will be implemented during the design and construction phase of renovations or new construction that will provide the building occupants an environment which is safe from physical hazards and fire hazards during all phases construction that affect the existing facility.
 1. Contractor's Project Manager and Superintendent
 - a. Shall monitor all renovation/construction areas each day to assure that these requirements are being met and a safe environment is maintained. Each non-compliant measure shall be corrected as quickly as possible.
 2. Subcontractors
 - a. Shall strictly enforce the NO TOBACCO USE policy on the Owner's property.

- b. Shall provide appropriate ILSM signage, unless noted otherwise.
- c. In addition to the requirements specified herein, Subcontractors shall abide by any ILSM policies and procedures in place by the Owner.

3. Subcontractors Project Superintendent

- a. Shall check pre-approved exits and exit corridors each day to assure they always remain clean and unobstructed. When existing paths need to be changed or modified in any way this shall be done only with the prior written approval of the Owner through the Contractor.
- b. Shall immediately remedy any ILSM issues as discovered and/or as directed by the Contractor.
- c. Shall assure that all combustible debris is removed from the work site at the end of each work shift.
- d. Shall construct barriers of non-combustible materials to separate the work areas from the rest of the building. All barriers shall have clean smooth surfaces.
- e. Shall assure that all penetrations of fire and smoke walls are properly sealed at the end of each work shift.
- f. Shall assure that all ceiling tiles are replaced at the end of each work shift.
- g. Shall assure that no flammable liquids are used without advanced approval.
- h. Shall assure that flammable liquids on the job site are limited to a one-day supply. Additional flammable liquids shall be stored in their assigned storage areas.
- i. Shall assure that flammable compressed gas cylinders are limited to a one-day supply. Additional gas cylinders will be stored in their assigned storage areas.
- j. Shall limit onsite storage of combustible materials to necessary quantity to support project schedule. Warehousing excessive combustible materials will not be permitted.
- k. Shall cover detectors within construction area.

4. Owner's Safety Coordinator

- a. May conduct fire drills that affect both Owner occupied and construction zone areas of the building or facility. All project personnel are required to cooperate and participate in these fire drills.

END OF SECTION

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Sections, apply to this Section.
- B. All work required by these Specific Project Requirements are included in the Subcontract Documents. In case of conflicts between the Specific Project Requirements and other Subcontract Documents, the more stringent requirements shall govern as determined and directed by the Contractor.

1.2 SUMMARY

- A. This Section includes the following:
 - 1. Personnel and Materials Hoisting
 - 2. Disposal and Trash Removal
 - 3. Temporary Toilets
 - 4. Temporary Water
 - 5. Temporary HVAC
 - 6. Temporary Electrical
 - 7. Temporary Communication Systems
 - 8. Temporary Fire Protection
 - 9. Existing Utility Services and MEP/FP Systems
 - 10. Construction Indoor Air Quality
 - 11. Construction Fence
 - 12. Temporary Onsite Structures
 - 13. Deliveries and Storage
 - 14. Temporary Enclosures
 - 15. Surveying
 - 16. Site and Area Restrictions and Requirements
 - 17. Water and Snow Removal
 - 18. Security and Protection Facilities Installation
 - 19. Site Specific Requirements

1.3 TEMPORARY FACILITIES AND CONTROLS

- A. Personnel and Materials Hoisting
 - 1. Crane: The Contractor will not provide a crane for materials hoisting.
 - 2. Vertical material and personnel management: The Contractor will not provide a personnel hoist or scaffold stairs.
 - 3. Horizontal material management: Contractor will not provide a forklift or other

equipment to move material around the site.

4. Scaffolding: The Subcontractor shall provide all scaffolding (unless noted otherwise) required to complete its work.
5. Lifts: The Subcontractor shall provide all lifts and other necessary equipment (unless noted otherwise) required to complete its work. Subcontractor shall be responsible to determine capacity limits of structure for proposed equipment.
6. Temporary Elevator Use: Not allowed.
7. Temporary Stairs: Until permanent stairs are available, Contractor will provide ladders for access on multi-floor projects.
8. Existing Stair Usage: Allowed with temp protection. Temp protection by Contractor.

B. Disposal and Trash Removal

1. The Contractor will provide dumpsters for Subcontractors use. Dumpsters may be allocated by material type. Subcontractor is responsible to sort debris to appropriate dumpster. Subcontractor shall not place any hazardous materials into dumpsters.
2. On a daily basis, Subcontractor shall clean-up its work area(s) to the satisfaction of the Contractor removing all its rubbish and debris to designated locations directed by the Contractor.
3. Subcontractor shall maintain a minimum of one (1) laborer for clean-up purposes for every ten (10) workers on site (including tiered subcontractors), or ratio thereof. In the event the Subcontractor fails to clean up in accordance with these requirements, the Contractor, after twenty-four (24) hours written notice to the Subcontractor, reserves the right to arrange for the clean up to be performed by others and deduct the cost from the Subcontract Sum.
4. Subcontractor shall ensure that all boxes, cartons, etc. are crushed to the minimum volume prior to placing in the trash containers or trash collection areas.
5. No paint cloths will be allowed in trash containers.
6. The disposal of any material, waste, effluents, trash, garbage or oil, grease, chemicals, etc. resulting from either demolition or new work, shall be disposed of in accordance with all applicable laws and shall be subject to the approval of the Contractor and/or Owner.
7. Contractor will coordinate progress cleaning for joint-use areas where more than one installer has worked.
8. An area will be designated for lunch and breaks. All food or drink, other than water, consumed on site must be in designated area. All waste shall be disposed of in trash receptacles furnished by the Contractor.
9. Project Specific Construction Waste Management and Disposal Plan – This Section includes administrative and procedural requirements for recycling and disposing of non-hazardous demolition, construction, and land clearing debris. Also reference other Division 01 through 49 Sections for other disposal requirements for other materials.

a. Definitions:

- 1) Construction Waste: Building and site improvement materials and other solid

waste resulting from construction, remodeling, renovation, or repair operations. Construction waste includes packaging.

- 2) Demolition Waste: Building and site improvement materials resulting from demolition or selective demolition operations.
 - 3) Disposal: Removal off-site of demolition and construction waste and subsequent sale, recycling, reuse, or deposit in landfill or incinerator acceptable to authorities having jurisdiction.
 - 4) Recycle: Recovery of demolition or construction waste for subsequent processing in preparation for reuse.
 - 5) Salvage: Recovery of demolition or construction waste and subsequent sale or reuse in another facility.
 - 6) Salvage and Reuse: Recovery of demolition or construction waste and subsequent incorporation into the Work.
- b. Objectives: Whenever possible, reduce construction waste by diverting construction, demolition and land clearing debris from landfill disposal. Redirect recyclable recovered resources back to the manufacturing process. Redirect reusable materials to appropriate sites.
- c. Recycling of construction materials will be completed on this project. Listed below are the basic recycling materials that will be required. Prior to mobilization on site the Contractor reserves the right to investigate additional recycling options based on specific materials to be installed. Following is a list of general items to be recycled: Cardboard, plastic, paper, aluminum, wood, drywall, concrete, and metals.
- d. Each Subcontractor is responsible for sorting their waste. Each item must be separated into a specific container. A Subcontractor's inability to follow the recycling requirements may result in rejected containers due to mixed containers. The Contractor reserves the right to backcharge any subcontractor due to these rejected containers based on the additional charges incurred by non-recycled material. Multiple trips may be required during construction in order for materials to be separated correctly. On-site dumpsters will be provided and labeled for efficient distribution of trash as required.

C. Temporary Toilets

1. Temporary toilet facilities shall be furnished and maintained as required by Contractor. The toilets shall be in sufficient number and at various locations to accommodate the workforce. The use of these toilet facilities by all members of the workforce is mandatory.

D. Temporary Water

1. Owner will pay all temporary service and permanent service water utility bills on the project.
2. Temporary water for use throughout the building and project site, at locations determined by the Contractor, shall be provided the Plumbing Subcontractor.
3. Each Subcontractor shall provide drinking water for their own forces.

4. Subcontractors requiring additional special temporary water service shall coordinate this work through the Plumbing Subcontractor and obtain approval of the Contractor. Associated cost of additional water service will be paid by the Subcontractor requesting the service. Special temporary requirements include, but are not limited to, trailer connections, sitework water and bulk water.
5. It will be the responsibility of the Subcontractor utilizing temporary water to protect the Project against water damage. When using water, the Subcontractor is required to use new materials and replace worn or broken parts. Hoses, fittings, etc. that are leaking shall be removed. Subcontractor will be responsible for the cost of damages arising from violation of this responsibility.
6. Temporary water service shall be drained down and reactivated as required to prevent freezing by the Plumbing Subcontractor.

E. Temporary HVAC

1. Temporary HVAC work includes, but is not limited to, caps for ductwork, temporary filters and filter media, equipment warranty extensions, interim controls, fire watch, temporary stand-alone smoke detectors for fan shut-down, ventilation and humidity control, monitoring of temperature and humidity, manual control of dampers (if required) and final clean-up of mechanical systems upon completion of construction work.
2. Ventilation and humidity control includes, but is not limited to, temporary ventilation required by construction activities for curing or drying of completed installations and protecting installed construction from adverse effects of high humidity. Coordinate ventilation requirements to produce ambient condition required and minimize energy consumption. Relative humidity shall be controlled as required to allow acclimation, installation, and application of finish materials.
3. Temporary Heat required for Subcontractor's Work is to be provided by Subcontractor (i.e. concrete, masonry, EIFS, etc.). General heating for creature comfort will not be provided by the Contractor.
4. Reference project specific temporary HVAC plan for the timeline of temporary conditioning inside the building.
5. Project Specific Temporary HVAC plan - The following is a basic guide for temporary conditioning during construction specifically addressing the use of existing or new HVAC equipment. Each job is unique as to the type of equipment on site, construction schedule, and construction type. Following a pre-coordination meeting with the Owner, Contractor, and Design Team, the Mechanical Subcontractor in conjunction with the Contractor shall submit their plan for coordination, review, and approval.
 - a. Mechanical Subcontractor shall provide temporary heat and cooling (including ventilation and humidity control) during construction maintaining temperatures and humidity conducive to installation of the specified finishes as outlined in Division 00 Section "Milestone Schedule of Construction".
 - b. New and/or existing systems: The Owner will not allow the use of new and/or existing systems for temporary heating and cooling.
 - c. Rental equipment (for temporary conditioning when permanent systems CANNOT

be used for temporary HVAC):

- 1) Because the Owner will not allow use of the existing or new systems for temporary heating and cooling (as previously defined), Contractor will furnish temporary (including all equipment, fuel, and fire watch as required) to maintain both temperature and humidity. Any other specific requirements for Subcontractors will be defined in the applicable Scope(s) of Work in Section 00 24 13.
- d. Utility Charges for rental equipment: Contractor will pay for utility charges incurred as a result of operating rental equipment for temporary HVAC.
- e. Monitoring: During temporary conditioning site conditions shall be monitored. The Contractor will provide data loggers to perform this function.
- f. Humidity control: A heating load may be required to control relative humidity during summer conditions. In humid climates it may be necessary to provide additional moisture removal using dehumidification systems.
- g. Mechanical Subcontractor shall coordinate electrical requirements for temporary HVAC with the Electrical Subcontractor and other affected Subcontractors.
- h. When temporary heat must be maintained during non-working hours, a competent person, agreed upon by Contractor, must be present to monitor heating equipment and take all necessary actions to prevent fire or respond to an emergency per the Contractor's Temporary Heat policy (available upon request). Each Subcontractor is responsible for cost associated with this requirement as it applies to their Work. Temporary heat is defined as any heating source that is powered by electricity (all types), LP gas, kerosene, fuel oil, and natural gas.
- i. Reference "Construction Indoor Air Quality" (IAQ) in this Section for cleanup guidelines, ductwork cleanliness guidelines for maintaining proper indoor air quality.
- j. Reference other Division 00 and 01 Sections "Temporary Facilities and Controls" for additional requirements.
- k. Proper execution of the temporary HVAC and IAQ program should result in clean ductwork systems at project substantial completion. Should ductwork become contaminated, Subcontractor will be held accountable for measures to test and clean ductwork.

F. Temporary Electrical (Power, lighting, fire alarm)

1. Owner will pay temporary service and permanent service usage costs for electrical power.
2. Electrical Subcontractor shall furnish, install, relocate, maintain and remove all necessary temporary wiring, lighting fixtures, protective devices, distribution panels, and transformers, etc. required for construction purposes conforming to rules and regulations of OSHA as well as other agencies having local jurisdiction. Work includes electrical power service and distribution system of sufficient size, capacity, and power characteristics required for construction operations.
3. Electrical Subcontractor shall provide temporary power requirements for trailers, equipment, and other special needs as required to execute the work. Reference

paragraph titled “Personnel and Material Hoisting” of this section for specific equipment requiring power.

4. Electrical Subcontractor shall make all necessary arrangements with the utility company to provide temporary service, as required. All electrical connections must meet local code requirements.
5. All Subcontractors will be responsible for their power extension cords from the temporary panels to their work areas. These cords shall be three wire (including ground wire) of sufficient capacity for service intended and fully approved by all governing bodies.
6. Each Subcontractor shall coordinate and pay for any further special temporary electrical requirements with the Electrical Subcontractor. Approval shall be provided by the Contractor.
7. Electrical Subcontractor shall provide temporary lighting with local switching that provides adequate illumination for construction operations, observations, inspections, security, and traffic conditions without the need to operate the entire system. Lighting shall be as required by OSHA and not less than one lamp per room. Minimum illuminance levels as defined by OSHA shall be maintained at all times.
8. Additional temporary task lighting requirements shall be the responsibility of individual Subcontractors.
9. When required by code or AHJ, Electrical Subcontractor shall provide temporary fire alarm system tied into existing fire alarm control panel. This temporary system shall be complete and functional at all times. No part of the temporary system shall be used for the permanent system. Work includes removal and maintenance of the temporary system.

G. Temporary Communication Systems

1. Subcontractor shall provide radios and/or cellular phones for all supervisory personal. Radios shall be as defined by Contractor to allow for common frequency and open communication.
2. Subcontractors requiring land line telephone or data service must coordinate and receive approval of the Contractor, prior to making their own arrangements for installation of these services.

H. Temporary Fire Protection

1. Contractor will provide fire extinguishers of proper type and quantity as required for general fire protection.
2. Subcontractor shall provide firewatch as required to perform its work.
3. Subcontractor shall notify Contractor in advance of performing Hot Work or any activity that could create a fire hazard. If required, Obtain Hot Work permit in advance of performing work and provide necessary fire extinguishers and/or firewatch.
4. Fire watch by Subcontractor as required when existing fire protection systems are taken out of service in occupied remodel spaces.

I. Existing Utility Services and Mechanical/Electrical/Plumbing/Fire Protection Systems

1. Where existing services and/or systems are required to be removed, relocated, or abandoned, the affecting Subcontractor shall bypass such services and/or systems before cutting in to prevent interruption to occupied areas.

J. Construction Indoor Air Quality (IAQ)

1. Summary: This Section defines the Indoor Air Quality Plan which focuses on providing a clean construction environment in order to produce not only an improved final product but also an improved working environment during construction. Each project will require a tailored IAQ Plan in order to account for any unique construction activities that may necessitate additional IAQ directives.
2. The IAQ guidelines outline the basic information necessary to accomplish the required environmental conditions.
3. Submittals: Indoor Air Quality (IAQ) Plan – After attending a pre-coordination meeting with the Contractor, the Mechanical Subcontractor with guidance from the Contractor shall submit a project specific construction indoor air quality plan describing proposed usage for existing or new temporary HVAC systems and electrical requirements. Coordinate with Electrical Subcontractor.
4. Clean-Up Methods: In order for a Subcontractor to maintain the basic required conditions for an acceptable IAQ environment daily clean-up methods must be performed. These include the following steps:
 - a. Daily clean-up of all waste products.
 - b. Walk-off mats – Often times the most dust and debris comes from outside of the building during poor weather conditions. Temporary walk-off mats should be used at all entrances. Walk off mats shall be provided by the Contractor.
 - c. Vacuums should be readily available to each crew for immediate use. (See “vacuums” below for further information).
 - d. Additional clean-up during finishing will be required in order to mitigate dust and debris that may affect the end product.
 - e. Access points into the building will be restricted to a limited number. Similarly, the trash routes and toilet facilities route may be restricted to these specific access points and therefore must be taken into consideration during planning.
 - f. Drywall Subcontractor shall vacuum out all stud tracks and chases before installing sheetrock.
 - g. Use water based sweeping compounds (only if allowed by finish flooring manufacturer) to minimize dust.
 - h. Equipment rooms shall be cleaned regularly.
5. Vacuums: Although vacuums are only a tool for achieving a successful IAQ Plan the availability of these items becomes an important aspect during construction. The guidelines below provide information that must be followed.
 - a. Saws, sanders, and other construction tools that create dust must be fitted with vacuums during use.
 - b. Shop Vacuums must have a working filter system. Any vacuums that do not appear

to vacuum or filter the dust as expected may be required to be replaced per the direction of the Contractor.

6. Cutting: Once the building becomes enclosed, the cutting methods require specific changes that will influence the flow of construction. Cutting within an enclosed space, especially during finishes, may be done only if necessary. The majority of cutting must be completed outside of the building enclosure and would not require any additional safeguards. Cutting within the structure without the following precautions will not be prohibited.
 - a. Wet cutting will be required during the cutting of most products within the building enclosure. This mostly pertains to the cutting of concrete and masonry although some finish products such as solid surfacing and tile work may also require wet cutting.
 - b. Cutting of some products such as gypsum board or millwork may need to be performed inside due to weather constraints. These products must utilize saws that can be fitted with vacuums.
 - c. Cutting stations may be built to provide an efficient process for a large amount of cutting. These stations may be designated rooms sealed off to contain the dust and debris. A designated cutting room must be accompanied by a permanent vacuum and daily clean-up of this room will be required. A mobile cutting station could be a secondary option for interior cutting. The mobile station concept will allow for a crew to maintain a close proximity to the current work area while still restricting dust and debris.
7. Ductwork Cleanliness Guidelines: Guidelines for ductwork cleanliness shall be as follows (follow other Subcontract Document requirements if more stringent than requirements listed in this section):
 - a. Ductwork Fabrication
 - 1) Shop or factory fabricated ductwork shall be manufactured in a shop environment with the mill oil film removed. When shop fabricated ductwork and fittings are shipped to the site completely assembled, both ends shall be sealed with an adhered protective covering.
 - 2) Ductwork may be shipped unassembled. This duct shall be kept covered and cleaned at the site as it is erected.
 - 3) Ductwork and fittings purchased from other fabricators, i.e. spiral, oval, etc., and delivered directly to the jobsite, shall be cleaned and capped and mill oil removed.
 - 4) Duct fabrication labels shall be placed on duct exterior only. No paper identification labels shall be inside the duct.
 - b. Shipping: All ductwork and accessories shipped from fabrication shop(s) shall be shipped in an enclosed trailer or enclosed truck to protect the ductwork from damage, dirt, and moisture during transit to the jobsite.
 - c. Storage: Ductwork that is delivered to the site shall be installed as soon as possible. Care shall be taken to schedule only enough material on site for the immediate work. If ductwork is to be stored on the site, it must be in enclosed vans or inside

the building at least 4” above the floor to avoid damage from weather or spills. Openings shall remain sealed until installed.

8. Installation

- a. Duct cleanliness for installed ductwork systems shall be maintained to meet the requirements for fabricated ductwork (see above). The ductwork shall be cleaned as necessary to maintain these conditions.
- b. Cover all ends of installed ductwork at the end of each workday, or when work is suspended for any length of time, i.e. breaks, lunch, etc. Hair nets are not an acceptable form of covering ductwork.
- c. If installed prior to roofing, protect ductwork from water infiltration.

9. Special Systems (Surgery, Pharmacy, Labs etc.): Any special systems, as outlined in the specifications or noted on the drawings, shall be internally cleaned with sterilizing alcohol. All openings shall be kept sealed and not opened for air outlet installation until all room finishes and dust related work is completed. Ductwork and equipment for these systems shall not be utilized for temporary heating and cooling. If conditioning of these spaces is required, temporary units may be necessary. These systems shall not be brought on-line until dust generating activities are complete (as directed by the Contractor).

10. Air Outlets Diffusers and Grilles:

- a. Air outlets shall be installed with filter media or blanked off (as directed by the Contractor).
- b. Return air shall not be activated until all dust generating activities are complete. If return air must be activated prior to completion, upon approval by the Contractor, install filter media on return duct openings.

c. Equipment

- 1) Air Handling Units, including their respective mechanical equipment rooms, and rooftop units are to be inspected for dirt/debris prior to any filter installation/start-up and shall be cleaned as necessary. Use 10% Isopropyl Alcohol-Water solution to wipe down the inside surfaces of the air handlers. Use proper ventilation whenever cleaning with an Isopropyl Alcohol solution.
- 2) All VAV terminal units shall be shipped from the factory and completely sealed and shall not be opened until they are installed, and ductwork connected. Also, terminal units are to be protected even if installed.

11. Protection of absorptive materials from moisture damage: HVAC Pipe or Ductwork insulation shall be stored 4” off the floor and covered to protect it from moisture and dirt, if necessary. Once installed this is the responsibility of the Subcontractor until the owner has accepted the work.

12. Existing Facility Guidelines

- a. Follow SMACNA IAQ Guidelines for Occupied Buildings under Construction.

K. Construction Fence

1. Contractor will erect and maintain a construction fence around the perimeter of the site

and staging area as indicated on the site access plan. Fence gates will be located to provide access/egress as determined by Contractor. Subcontractor shall not remove sections of the fence without approval from Contractor. Subcontractors granted approval to remove a portion of the construction fence will be responsible to replace and restore those sections to the satisfaction of Contractor. Reference Section titled "Site Access Plan" 00 30 00 for further detail.

L. Temporary Onsite Structures

1. Each Subcontractor shall coordinate and obtain the approval of the Contractor for on-site temporary office and storage facilities. Subcontractor shall provide, maintain and remove its own temporary office and storage facilities.
2. Temporary power, telephone and water service requirements to its on-site temporary facilities shall be the responsibility the Subcontractor requiring temporary facilities
3. Reference the Site Access Plan for centralized temporary facilities, if any.

M. Deliveries and Storage

1. Each Subcontractor shall familiarize themselves with available existing and planned site access road conditions including associated requirements such as overhead power lines, other overhead clearances, available vehicle turning radius at corners and/or intersections, or maximum load capacity of access roads. If equipment or materials cannot be delivered to the project site based on available access constraints, Subcontractor shall be responsible for temporary and/or permanent access infrastructure modifications as required to perform delivery and any repairs made necessary because of modifications and/or damage caused by delivery of materials and equipment to or from the Project site.
2. Coordinate and schedule all material deliveries and storage in advance of the scheduled work. Subcontractor's on-site personnel shall receive, unload and store all material to be installed as part of the Work.
3. Onsite storage shall not be allowed except as specifically approved by the Contractor. Contractor will not assume any responsibility for Subcontractor's stored materials.
4. If it becomes necessary at any time during construction to move Subcontractor's stored materials, temporary protection, equipment or barricades which impede or interfere with construction, the Subcontractor, when directed by the Contractor, shall move them to location acceptable to Contractor within 24 hours of request and without additional charge to the Contractor.

N. Temporary Enclosures

1. Any work requiring protection from weather or other detrimental conditions shall be protected by the Subcontractor performing that work.

O. Surveying

1. Benchmarks will be established and maintained by the Contractor. Any inconsistencies found in dimensions or elevations shall be reported to the Contractor before proceeding with work.
2. All other layout required for the Work shall be by the Subcontractor, unless specifically noted otherwise.

P. Site and Area Restrictions and Requirements

1. Reference Section titled "Site Access Plan" Section 00 30 00.
2. Access to and from the site is under the control and direction of Contractor. All Subcontractors are responsible coordinating and obtaining the approval of their delivery schedule with the Contractor.
3. Limited Parking will be provided at the site per the site access plan.
4. Contractor shall construct and maintain temporary roads, crane roads and pads, and paved areas adequate for construction operations as described in the Site Access Plan. Each Subcontractor requiring temporary roads or pads beyond that indicated on Site Access Plan shall coordinate and obtain the approval of the Contractor. If approved by Contractor, Subcontractor shall provide and maintain temporary roads and pads for its use and remove them at the direction of the Contractor.
5. Traffic Controls: Each Subcontractor shall provide traffic controls including, but not limited to, barricades, flagmen and street closure permits for their Work. Comply with requirements of authorities having jurisdiction. Protect existing site improvements to remain including curbs, pavement, and utilities. Maintain access for fire-fighting equipment and access to fire hydrants.
6. Each Subcontractor is responsible for daily cleaning of streets from mud track-out as a result of their Work.

Q. Water and Snow Removal

1. Each Subcontractor shall remove water as required to maintain progress of the Work according to the schedule.
2. Snow and Ice Removal: Each Subcontractor shall remove snow and ice as required to maintain progress of the work according to schedule. The use of calcium chloride as an aid or means to remove snow or ice will not be permitted.

R. Security and Protection Facilities Installation

1. Temporary Erosion and Sedimentation Control: Provide measures to prevent soil erosion and discharge of soil-bearing water runoff and airborne dust to undisturbed areas and to adjacent properties and walkways, according to authorities having jurisdiction and Subcontract Documents. Primary responsibility for the stormwater and erosion control will be the Earthwork Subcontractor. To the extent other Subcontractor's work will result in additional land disturbance or affect erosion control measures in place, the subcontractor shall comply with the requirements of the Subcontract Documents and the authorities having jurisdiction.
2. Stormwater Control: Comply with requirements of authorities having jurisdiction. Provide barriers in and around excavations and subgrade construction to prevent flooding by runoff of stormwater from heavy rains. Primary responsibility for this Work will be the Earthwork Subcontractor. To the extent other Subcontractor's work will result in additional land disturbance or affect erosion control measures in place, the subcontractor shall comply with the requirements of the Subcontract Documents and the authorities having jurisdiction.
3. Tree and Plant Protection: Install temporary fencing located as indicated or outside the drip line of trees to protect vegetation from damage from construction operations.

- Protect tree root systems from damage, flooding, and erosion.
4. Barricades, Warning Signs, and Lights: Comply with requirements of authorities having jurisdiction (and as required for adequate pedestrian and traffic safety) for erecting structurally adequate barricades, including warning signs and lighting.
 5. Temporary Egress: Maintain temporary egress from existing occupied facilities as indicated and as required by authorities having jurisdiction.
 6. Temporary Partitions: Selective Demolition Subcontractor shall provide floor-to-ceiling dustproof partitions to limit dust and dirt migration and to separate areas occupied by Owner from fumes and noise. Construct dustproof partitions with gypsum wallboard with joints taped on occupied side. Where fire-resistance-rated temporary partitions are indicated or are required by authorities having jurisdiction, construct partitions according to the rated assemblies.
 7. Site Security: Site security will not be provided on the project.
- S. Site Specific Requirements: Comply with all Owner requirements for Contractor policies, rules, and regulations, if any.
1. Smoking and other tobacco use on the jobsite is not permitted, unless allowed in designated areas.

END OF SECTION

PART 1 - GENERAL

1.1 SUMMARY

- A. This Project will have a Controlled Insurance Program ("CIP"), as set forth in this Section.

END OF SECTION

Controlled Insurance Program Requirements & Forms for General Liability Only

****NOTE: TRADE PARTNER SHALL EXCLUDE COST OF
ON-SITE GENERAL LIABILITY INSURANCE FROM BID.**



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THIS MANUAL IS PART OF YOUR CONTRACT.

Dunn VII Version 02-2023 \$50M Excess

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Forms XII

Trade Partner Enrollment Application

Certificate of Insurance – Enrolled Trade Partner

Certificate of Insurance – Non-enrolled Trade Partner

Claim Reporting Form

This manual has been prepared to provide general information about the Dunn Controlled Insurance Program and the procedures to be followed by a Trade Partner. **This manual is not** a substitute for policies issued, nor is it to be interpreted as altering or changing any of the general or special conditions or other terms of the insurance contract as it pertains to insurance coverage or any other duties or responsibilities of any party enrolled in this program. If any conflict exists between this manual and the insurance policies, the policies govern. Policies are available upon request. This manual is subject to change and any such changes will be communicated to all affected parties.

What is a Controlled Insurance Program?

The Dunn Controlled Insurance Program (DCIP) is a coordinated master insurance, safety and claims management program for the Contractor and all Enrolled Trade Partners working on the Project.

What coverage will the DCIP provide?

The following coverage is provided by the DCIP for the Contractor and **Enrolled** Trade Partners: onsite General Liability and onsite Excess Liability.

Who is eligible to be enrolled?

Any Trade Partner that is not defined herein as excluded is eligible.

What are ENROLLED Trade Partner obligations as a participant in the DCIP?

- ✓ **Exclude** onsite General Liability **and** Umbrella/Excess Liability costs from pricing; include all other insurance costs as required by this manual and Contract in the price.
- ✓ Prior to starting work, complete all enrollment forms. (Section XII)
- ✓ Prior to starting work, provide Certificate(s) of Insurance evidencing all coverage required in this manual to be furnished by Enrolled Trade Partners and not provided under the DCIP. (Section XII) All certificates of insurance and applicable endorsements evidencing all required insurance shall be tendered to JE Dunn. Trade Partner authorizes Contractor and myCOI to contact Trade Partner's insurance agent/broker or other authorized person to obtain certificates of insurance and request, as appropriate, changes to such insurance to meet the requirements herein.
- ✓ Comply with all on-site safety requirements including, but not limited to, the DCIP Project Safety Program. (Section XI and http://sms.jedunn.com/safety_program)
- ✓ Immediately report accidents or occurrences as required in the Claims Procedures. (Section X)

What are EXCLUDED (Non-enrolled) Trade Partner obligations?

- ✓ Contracts are to be bid with **all** costs of providing insurance required in this manual and Contract **included** in its overall price for the Work. (Section VII)
- ✓ Provide certificate(s) of insurance evidencing all coverage required in this manual to be furnished by Non-enrolled Trade Partners. (Sections VIII and XII) All certificates of insurance and applicable endorsements evidencing all required insurance shall be tendered to JE Dunn. Trade Partner authorizes Contractor to contact Trade Partner's insurance agent/broker or other authorized person to obtain certificates of insurance and request, as appropriate, changes to such insurance to meet the requirements herein.
- ✓ Comply with all on-site safety requirements including, but not limited to, the DCIP Project Safety Program. (Section XI and http://sms.jedunn.com/safety_program)

- ✓ Immediately report accidents or occurrences as required in the Claims Procedures. (Section X)

Who is excluded from the DCIP?

Unless allowed by Contractor, the following parties, including their lower tier trade partners, are excluded from the DCIP:

- ✓ Trade Partners performing hazardous material remediation;
- ✓ Trade Partners performing structural demolition (dismantling will be included into the DCIP if no wrecking balls, explosive or demolition that is structural in nature is performed)
- ✓ Trade Partners performing blasting operations;
- ✓ Elevator Trade Partners;
- ✓ Architects, engineers, surveyors, testing laboratories, and their consultants; and
- ✓ Vendors, suppliers, material dealers, haulers and/or independent haulers, and firms whose sole function is to transport, pick up, deliver, or carry materials, supplies, tools, equipment, parts, or other items or persons to or from the Project Site.

Contractor reserves its right to exclude any and all Trade Partners and/or lower tier Trade Partners from the DCIP.

Important Facts

- ✓ **Enrollment:** Enrollment in the DCIP by all eligible Trade Partners is mandatory (unless specifically excluded by the Contractor) but not automatic. **Satisfactory completion and submission of enrollment documentation and compliant insurance certificates are required PRIOR TO STARTING WORK AT THE PROJECT SITE.**
- ✓ **Enrolled Trade Partner insurance credit calculation:** JE Dunn reserves the right to verify the insurance amount excluded from bid packages. At JE Dunn and/or DCIP administrator request, each trade partner and each of its lower tier trade partners shall submit all documentation in connection therewith, including, but not limited to:
 - Copies of declaration and rate pages for the state where the project is located.
 - Deductible or retention pages
 - If applicable, loss pick rate information on insurance carrier letterhead

The DCIP administrator will review the data submitted by the trade partner for accuracy. In the event of discrepancy, the DCIP administrator will notify the JE Dunn and trade partner.

The trade partner represents that all insurance credit information submitted to DCIP administrator to verify insurance credit is accurate and complete. The trade partner agrees that

I. Introduction

JE Dunn is entitled to and may identify additional insurance credits resulting from inaccurate assumptions in the initial credit.

- ✓ **Enrolled Trade Partners:** The DCIP shall apply to the Contractor and eligible Trade Partners who have complied with the insurance requirements and completed the enrollment process. Contractor reserves the right to exclude any Trade Partner from the DCIP.
- ✓ **Excluded Trade Partners/Activities:** See above and Section II *Definitions* to review the parties and activities excluded from DCIP coverage. The Contractor, at its sole discretion, will determine which Trade Partner(s) of any tier will participate in the DCIP.
- ✓ **Scope of Insurance:** Unless otherwise specifically indicated, the coverage set forth in Section IX *DCIP Insurance provided for Enrolled Trade Partners* will cover only those operations of the enrolled parties performed in connection with the Work on the Project Site and employees of the enrolled parties while performing the Work on the Project Site. The DCIP shall not apply to the operations or the employees of any Trade Partner at their offices, factories, warehouses or otherwise not on the Project Site.
- ✓ **Safety:** Strict compliance with Section XI – *DCIP Project Safety Program*, the Dunn national safety program (at http://sms.jedunn.com/safety_program), and any other safety requirements in the Contract Documents, will always be required. Failure to comply is a default of the Subcontract and could result in being denied coverage under the DCIP, being denied access to the Project Site, or termination of the Subcontract.
- ✓ **Trade Partner Enrollment Process:** Trade Partners are required to submit a Trade Partner Enrollment Application as well as a certificate of insurance complying with the requirements herein.
- ✓ **If an Enrolled Trade Partner contracts with a lower tier Trade Partner, including contract employee(s) and temporary employment agencies, the Trade Partner is responsible for the following:**
 1. Including this manual and all requirements within it as a part of the Enrolled Trade Partner's lower tier subcontract agreement(s); and ensuring that such lower tier Trade Partners fulfill all obligations as required of you as a Trade Partner under the DCIP.
 2. Notifying the Contractor of **all** subcontract awards utilizing the Trade Partner Enrollment Application-GL Only Program form. (Section XII *Enrollment Forms*).
 3. Ensuring lower tier Trade Partner(s) bids **exclude onsite General Liability coverage cost** but include all other insurance required by this manual.

All Enrolled Trade Partners will be required to meet the DCIP requirements. The Contractor has the authority to deny access to the Jobsite for noncompliance with insurance or safety requirements. **TRADE PARTNERS SHALL VERIFY THEIR LOWER TIER TRADE PARTNER(S) HAVE MET THESE REQUIREMENTS PRIOR TO AWARDED WORK, INCLUDING, BUT NOT LIMITED TO, COLLECTION OF ALL**

REQUIRED CERTIFICATES OF INSURANCE. Upon request, Trade Partner shall provide the Contractor with all certificates from Trade Partner's lower tier Trade Partners.

The DCIP provides some, but not all, insurance coverage typical to construction projects. Refer to Section IX to review what is provided. Contact the Contractor if you have questions regarding other coverages, like Builders Risk and the like.

Who needs a copy of this manual?

- ✓ Trade Partner's administrative personnel who manage its insurance and/or its insurance agent/broker.
 - ✓ Trade Partner's estimators, prior to bidding work on the Project.
 - ✓ Trade Partner's payroll personnel, who will be responsible for turning in the payroll reports.
 - ✓ Trade Partner's safety personnel, who will need to educate its on-site workers with respect to the Project Safety Program requirements.
 - ✓ Trade Partner's claims personnel, who will be responsible for turning in claims.
 - ✓ Lower-tier Trade Partners (of any tier).
- ✓ It is recommended you discuss with your insurance agent(s) / broker(s) endorsing your coverage to be excess and contingent over the DCIP coverage for on-site activities. Many traditional insurance programs contain "CIP exclusions" which it is recommended be removed.

II. Definitions

The following definitions shall apply only for the purpose of this Project Insurance Manual.

Architect/Engineer

The firm or team of firms that provide design services, including preparation of the construction documents under a contract with an owner and/or a general contractor, depending on the circumstances.

Contractor

JE Dunn Construction Company or any subsidiary or affiliate, which has the primary Project contract with the Owner or other entity and which subcontracts some or all work under a Contract between the Contractor and Trade Partners.

Contract/ Contract Document(s)

A written agreement between the Contractor or its designee and a Trade Partner.

DCIP

The Dunn Controlled Insurance Program under which certain insurance coverage is provided and paid for by the Contractor.

Designated Representative

A representative approved by the Contractor and its Trade Partner(s) who is always readily accessible during working hours for the purpose of reporting claims and completing claim reports.

Enrolled Trade Partner

A Trade Partner that has a Contract with the Contractor or one of its Trade Partners for the Project and has been approved by the Contractor and accepted by the DCIP Administrator for participation in the DCIP. Approval requires the Trade Partner to have previously:

1. complied with all insurance requirements,
2. completed the enrollment process, and
3. received notification of enrollment.

Excess Liability

Any number of insurance policies that provide additional limits of coverage in excess of the limits provided by the primary policy.

Excluded Parties / Activities

Project participants that fall into the following categories:

1. Trade Partners performing hazardous material remediation and their lower tier Trade Partners.
2. Trade Partners performing structural demolition and their lower tier Trade Partners. (Dismantling will be included into the DCIP if no wrecking balls, explosive or demolition that is structural in nature is performed).
3. Trade Partners performing blasting operations and their lower tier Trade Partners.
4. Elevator Trade Partners and their lower tier Trade Partners.
5. Architect, engineer, surveyor, or testing laboratory and their sub-consultants of any tier.
6. Vendors, suppliers, material dealers, haulers and/or independent haulers, and firms whose sole function is to transport, pick up, deliver, or carry materials, supplies, tools, equipment, parts, or other items or persons to or from the Project Site.

Insurer(s)

Commercial General Liability: Liberty Mutual Fire Insurance Co.

Excess Liability: National Fire & Marine Insurance Co.

Excess Liability: Ohio Casualty Insurance Co.

Jobsite / Project Site

The location of work or operations performed by the Contractor or Trade Partner at the designated jobsite. Jobsite work also includes areas adjacent to Project Site or nearby described tracts of land where incidental operations are performed as specifically indicated in the Contract Documents.

This insurance does not apply to the operations of any Trade Partner(s) of any tier at their offices, factory, warehouse, or yards or otherwise not on the Project Site. The DCIP insurance coverage apply only to work performed at the Project Site.

Non-enrolled Trade Partner

A Trade Partner providing typical labor and material services but excluded from the DCIP (non-enrolled) and their Trade Partners of any tier.

Owner

Owner as defined in the Contract Documents

Project

The construction project for which the Contractor has a written agreement with the Owner for the Work.

Project Insurance Manual

This document, also sometimes referred to as simply “manual.”

Trade Partner

Persons or companies providing construction services and/or materials and equipment for the Project under written Contract with Contractor or under contract with a Trade Partner of any tier.

Trade Partner Supervisor

A Trade Partner’s superintendent or primary supervisor for the Work on the Project who has the overall responsibility to see that the Work or Project is satisfactorily completed in accordance with the Contract.

Work

The construction and services, including all labor, material, equipment and services to be provided, to complete the Trade Partner’s obligations under the Contract Documents. Work may include areas adjacent to the Project Site or nearby described tracts of land where incidental operations are performed as specifically indicated in the Contract Documents.

III. Checklist for Enrollment

Forms required for enrollment prior to arrival on site. (Section XII Forms)

- ❑ Trade Partner Enrollment Application-GL Only Program (Section XII Forms).
- ❑ Certificate(s) of insurance (Section XII Forms) must be rendered to JE Dunn

IV. Administrative Contacts

Loss Control	James Robles, National Safety Director JE Dunn Construction Company 1001 Locust St. Kansas City, MO 64106 (512) 687-6146 james.robles@jedunn.com
Claims Consultant (GL)	Holly Wright, Claims Consultant Lockton Companies, LLC 444 West 47th Street, Suite 900 Kansas City, Missouri 64112-1906 (816) 960-9429 hwright@lockton.com
DCIP Director and Program Administrator	Beth Brown, Insurance Program Manager J. E. Dunn Construction Company 1001 Locust Street Kansas City, MO 64106 (816) 292-8732 beth.brown@jedunn.com
Contact for Filing Claims	Beth Brown J. E. Dunn Construction Company 1001 Locust Street Kansas City, MO 64106 (816) 292-8732 claims@jedunn.com

V. Miscellaneous DCIP Requirements

Audits

If a Contract provides for audit, due to the GMP nature of the Contract, for change orders, or any other provision, and if during such audit costs are discovered which relate to onsite General Liability coverage, such costs shall be disallowed.

Returning to the Jobsite after Substantial Completion

The DCIP will provide General Liability and Excess Liability coverage for up to one year following substantial completion if the Trade Partner is required to return to the site. Such insurance only applies to issues with work performed under the original Contract. All other insurance of Trade Partner necessary when returning to the site shall be provided by Trade Partner.

If Trade Partner returns to the site for any other reason, including maintenance of installed equipment, the DCIP will not be applicable, and Trade Partner's own insurance coverage must respond to any occurrence or event. Please confirm with Contractor the appropriate insurance approach prior to returning to the Project.

Assignment and Transfer to Return of Premiums

Enrolled Trade Partners of any tier assign and transfer any and all rights, title, and all interest in any dividends, retrospective adjustments, participation payment and/or return of premiums, which may be payable to the Contractor under the DCIP. This "Assignment and Transfer to Return of Premiums" is in no way related to the Trade Partner's usual or traditional insurance programs.

VI. Insurance to be Furnished by Enrolled Trade Partners

Prior to enrollment and commencement of any Work on the Project, Enrolled Trade Partners, at their own expense, will furnish to the Contractor certificates of insurance evidencing insurance coverage as follows:

1. **Minimum Coverage and Limits.** Unless higher limits are required in the Contract Documents, Enrolled Trade Partners must procure, carry, and maintain policies of insurance meeting the requirements and minimum limits listed below. Where appropriate, the required insurance limits may be provided through a combination of primary and excess/umbrella policies.
 - A. **Workers' Compensation and Employer's Liability Insurance.** Enrolled Trade Partners must obtain and maintain Workers' Compensation to cover the statutory limits and requirements of the Workers' Compensation laws of the state or states in which the Enrolled Trade Partner's Work is performed. Trade Partner Workers' Compensation insurance shall include coverage for all proprietors, partners, members, and executives. **Enrolled Trade Partners must carry this insurance regardless of eligibility for waiver or exemption of coverage under a state law.** Trade Partner's Workers' Compensation insurance shall provide coverage for every tier with whom Trade Partner has a contract to perform Trade Partner's Work on the project, including, but not limited to, lower tier Trade Partners, Professional Employee Organizations, staffing companies, or labor vendors where such entities are performing any labor or services on the project. Enrolled Trade Partners must also obtain and maintain Employer's Liability insurance, including Occupational Disease coverage, meeting the requirements, and written for the following policy limits:

\$500,000 Bodily Injury Each Accident
\$500,000 Each Employee
\$500,000 Aggregate – Policy Limit

Coverage for Workers' Compensation and Employers Liability shall be written on an NCCI WC 00 00 00 coverage form or its equivalent.

Such insurance must include "other states" insurance, to include all states not named on the declarations page of the insurance policy, except for the monopolistic states.

Enrolled Trade Partners shall either provide Workers' Compensation coverage or require proof of Workers' Compensation coverage, from every person with whom it has a direct contract to perform construction work on the Project. The substance of this clause shall be included in all contracts the Enrolled Trade Partner enters with lower tier Trade Partners.

NOTICE: Any out-of-state project participants of any tier are advised to contact the Workers' Compensation department in the state where the project is located regarding requirements and compliance with the local Workers' Compensation laws and regulations.

- B. **OFFSITE Commercial General Liability Insurance.** Enrolled Trade Partners must obtain and maintain Commercial General Liability insurance for activities **not on the Jobsite** for the hazards of (i) construction operation, (ii) independent contractors,

VI. Insurance to be Furnished by Enrolled Trade Partners

(iii) products/completed operations, (iv) explosion, collapse and underground (XCU), (v) broad form property damage, (vi) personal injury, (vii) premises operations, and (viii) broad form contractual liability. Such insurance must be written for the following policy limits:

\$1,000,000 Per Occurrence, Combined Single Limit for Bodily Injury, and Property Damage
\$1,000,000 Personal & Advertising Injury
\$2,000,000 General Aggregate (Per Project)
\$2,000,000 Products/Completed Operations Aggregate

Enrolled Trade Partners must continue to maintain or renew annually Commercial General Liability, including products/completed operations, for a minimum of **the statute of repose for the state in which the project is located** from completion of the Enrolled Trade Partners' Work on-site, or as required by the Contract Documents, whichever is longer.

- C. **Commercial Automobile Liability Insurance.** Enrolled Trade Partners must obtain and maintain comprehensive automobile insurance covering all owned, non-owned and hired automobiles used in connection with the Enrolled Trade Partner's Work written for the following policy limits:

\$1,000,000 Combined Single Limit for Bodily Injury and Property Damage per Accident

- D. **Excess/Umbrella Liability.** Enrolled Trade Partners must obtain and maintain Excess/Umbrella Liability coverage on a form following primary policy form (for General Liability (**offsite**), Automobile Liability and Employers Liability) written for the following policy limits:

\$2,000,000 Per Occurrence
\$2,000,000 Aggregate Limit

Enrolled Trade Partners must continue to maintain or renew annually Excess/Umbrella Liability for a minimum of the statute of repose for the state in which the project is located from completion of Enrolled Trade Partners' Work on-site, or as required by the Contract Documents, whichever is longer.

- E. **Design/Professional Liability.** If any design responsibility is included in the scope of Work of an Enrolled Trade Partner's Contract, the Enrolled Trade Partners, or its designer, must maintain or renew annually, for a period of **the statute of repose for the state in which the project is located** after the date of Final Completion, insurance covering claims arising out of the performance or furnishing of design professional services and for claims arising out of allegations of errors, omissions or negligent acts in connection with the Work. The policy must be written for the following policy limits:

\$1,000,000 Each Claim
\$1,000,000 Annual Aggregate Limit

VI. Insurance to be Furnished by Enrolled Trade Partners

If the Trade Partner's Contract amount exceeds \$25 million, Trade Partner shall evidence higher limits; Trade Partner shall confirm with Contractor the higher limits required.

- F. **Commercial Watercraft and/or Aircraft Liability (if applicable).** If watercraft or aircraft are used in connection with the Enrolled Trade Partner's Work, Enrolled Trade Partners must obtain and maintain Commercial Watercraft and/or Aircraft Liability insurance covering the use of all owned, non-owned, and hired watercraft and/or aircraft written with a combined bodily injury or property damage limit of **\$50,000,000**.
- G. **Pollution Liability (if Trade Partner's scope of work includes abatement, remediation, or handling of hazardous materials).** The Contractor reserves the right to determine, on an individual Contract basis, whether pollution coverage must be carried by a Trade Partner and what limits will be required. If required, a Trade Partner must furnish insurance providing coverage for Pollution Liability in an amount not less than **\$2,000,000 per occurrence / \$2,000,000 Annual Aggregate** and complying with any other requirements of the Contract Documents. Such coverage shall be maintained or renewed annually for a minimum of the statute of repose for the state in which the project is located.
- H. **Equipment Policy.** Trade Partners must provide property coverage for their equipment and tools brought onto the Project site. Trade Partners waive all rights and claims against Owner, Contractor, Architect, and other trade partners of any tier for damages or losses to their personal property, including, without limitation, their tools, equipment, machinery, mobile construction equipment, vessels, scaffolding and temporary structures, whether owned, used, leased, or rented by Trade Partner, however caused. Trade Partner's insurance policies shall provide for such waiver by endorsement or otherwise. Trade Partner shall be solely responsible for any loss or damage to their personal property, however caused, and shall have no right of recovery against Owner, Contractor, Architect and other trade partners for such loss or damage.
- I. **Manned and Unmanned Aerial Services.** Before contracting for aerial services (such as manned or unmanned aerial photography), Enrolled Trade Partners must show that providers have aviation liability insurance coverage. A compliant certificate of insurance must be provided prior to executing an agreement or commencing services as follows:
- Specifically states that JE Dunn Construction Company and the Owner of the Project are Additional Insureds with respect to Aviation / Aircraft Liability coverage.
 - Lists "JE Dunn Construction Company" as the certificate holder. JE Dunn will not accept a "generic," or blank, certificate.
 - Shows liability limits maintained on the specific and identified aircraft/drone meeting or exceeding the following:
 - **\$1,000,000** per occurrence (with no per passenger or per person sublimit).
 - Includes a statement indicating the policy has been endorsed to waive the insurer's rights to subrogate against JE Dunn and the Owner with respect to claims arising from the use of the aircraft/drone in performing work on behalf of JE Dunn.
 - Includes a thirty (30) day written notice of cancellation in favor of JE Dunn.

VI. Insurance to be Furnished by Enrolled Trade Partners

- States the following on the certificate: “Coverage is primary and without right of contribution of any insurance maintained by JE Dunn Construction Company or [the Owner of the Project].”

Only FAA Part 107 certified and qualified pilots may fly drones on JE Dunn projects, and all required FAA and government waivers must be obtained prior to flight.

2. Conditions

- Insurance Primary.** Enrolled Trade Partners agree that all its policies of insurance are primary, non-contributory with and not in excess of the coverage of the insurance provided hereunder (whether primary, excess, or umbrella) or any other insurance available to Additional Insureds required by Contract.
 - Severability of Interest.** Offsite General Liability, Offsite Excess/Umbrella Liability, and Pollution Liability, if any, must be written to provide that, inasmuch as this policy is written to cover more than one insured, all terms, conditions, insuring agreements and endorsements, with the exception of limits of liability, must operate in the same manner as if there were a separate policy covering each insured.
 - Waiver of Subrogation.** All policies of insurance, where allowed by law and excluding Design/Professional Liability insurance, that are in any way related to the Work or services of the Project, including those that are secured and maintained by consultants and lower-tier Trade Partners, must include a provision providing that each party and its insurance carrier waive all rights of recovery under subrogation or otherwise against the Owner, Contractor, Architect (if required in the Contract Documents), Enrolled Trade Partners of any tier, and any other person or entity required by the Contract Documents, and all their assigns, subsidiaries and affiliates.
 - Additional Insureds.** Trade Partner-furnished insurance (except Workers’ Compensation Insurance and Design/Professional Liability, if applicable) must include Owner, Contractor, Architect (if required in the Contract Documents), and any other person or entity required by the Contract Documents, and all their assigns, subsidiaries and affiliates as additional insureds as their respective interest may appear (“Additional Insureds”). Additional Insured status must be provided for ongoing operations and completed operations. Additional Insured endorsements are subject to Contractor’s review and approval if provided with certificates of insurance. Additional Insured endorsements may not contain time limitations shorter than required by Contract, nor may it alter/limit coverage provided to the Additional Insured. All limits of liability available to the Trade Partner shall inure to the benefit of the Additional Insureds.
 - Cancellation Notice.** Policies shall not be canceled, non-renewed or materially changed without the Trade Partner providing sixty (60) days prior written notice to Contractor.
- Lower-Tier Trade Partners’ Insurance.** A Trade Partner must require all lower-tier Trade Partners providing labor, equipment, materials, or services directly to Trade Partner in connection with the Trade Partner’s Work to obtain, maintain and keep in force coverage in

VI. Insurance to be Furnished by Enrolled Trade Partners

accordance with these insurance requirements. Trade partner will not be excused from its obligations to cause such lower tier Trade Partners to meet the insurance coverage requirements set forth under this section unless Trade Partner obtains in writing from Contractor a waiver, which must be effective only as to such requirements and for such lower-tier Trade Partners specifically identified therein.

4. General Requirements

- A. Certificates of insurance complying with these requirements must be received by JE Dunn prior to commencement of a Trade Partner's Work on the Project and will be a condition to any payment.
- B. All insurance is to be issued by companies acceptable to Contractor but must be provided by companies having at least an A.M. Best rating of A-VI or better and authorized in the state in which the project is located.
- C. Contractor reserves the right to require that Trade Partner provide certified copies of any and all insurance policies and endorsements.
- D. Certificates of insurance are subject to the approval of Contractor. However, any acceptance of a certificate by Contractor does not limit or relieve Trade Partner of its obligations under the Contract or waive Trade Partner's obligation to maintain such insurance.
- E. Contractor may take such steps as necessary to ensure Trade Partner compliance with the insurance requirements. In the event Trade Partner fails to obtain and maintain the policies of insurance meeting the requirements and minimum limits identified above, Contractor may obtain and maintain such coverage and recover the cost from Trade Partner.
- F. The policies of insurance required above must contain no exclusion for work expressly within Trade Partner's scope of work (e.g., EIFS, asbestos, etc.) unless Trade Partner has a separate policy providing such coverage and provides evidence of such coverage with limits of liability comparable with above stated limits.
- G. The required coverage and limits referred to and set forth herein do not affect or limit Trade Partner's liability with respect to its Contract and its performance or the coverage afforded to an Additional Insured.

VII. Insurance to be Furnished by Non-Enrolled Trade Partners

Non-enrolled Trade Partners and other Excluded Parties shall not be covered by insurance provided through the DCIP. Non-enrolled Trade Partners shall obtain and maintain all insurance coverage specified below until all their obligations have been discharged, including any warranty periods under their Contract. Other categories of Excluded Parties should refer to their specific Contract to ascertain their insurance obligations.

1. **Minimum Coverage and Limits.** Unless higher limits are required in the Contract Documents, Non-enrolled Trade Partners must procure, carry, and maintain policies of insurance meeting the requirements and minimum limits listed below. Where appropriate, the required insurance limits may be provided through a combination of primary and excess/umbrella policies.
 - A. **Workers' Compensation and Employer's Liability Insurance.** Non-enrolled Trade Partners must obtain and maintain Workers' Compensation insurance to cover the statutory limits and requirements of the Workers' Compensation laws of the state or states in which the Non-enrolled Trade Partner's Work is performed. Trade Partner's Workers' Compensation insurance shall include coverage for all proprietors, partners, members, and executives. **Non-Enrolled Trade Partners must carry this insurance regardless of eligibility for waiver or exemption of coverage under a state law.** Trade Partner Workers' Compensation insurance shall provide coverage for every tier with whom Trade Partner has a contract to perform Trade Partner's Work on the project, including, but not limited to, lower tier Trade Partners, Professional Employee Organizations, staffing companies, or labor vendors where such entities are performing any labor or services on the project. Non-enrolled Trade Partners must also obtain and maintain Employer's Liability insurance, including Occupational Disease coverage, meeting the requirements, and written for the following policy limits:

\$500,000 Bodily Injury Each Accident
\$500,000 Each Employee
\$500,000 Aggregate – Policy Limit

Coverage for Workers' Compensation and Employers Liability shall be written on an NCCI WC 00 00 00 coverage form or its equivalent.

Such insurance must include "other states" insurance, to include all states not named on the declarations page of the insurance policy, except for the monopolistic states.

Non-enrolled Trade Partners shall either provide Workers' Compensation coverage or require proof of Workers' Compensation coverage from every person with whom it has a direct contract to perform construction Work on the Project. The substance of this clause shall be included in all contracts Non-enrolled Trade Partners enter with lower tier Trade Partners.

NOTICE: All out-of-state Trade Partners of any tier are advised to contact the Workers' Compensation department in the state where the project is located regarding requirements and compliance with the local Workers' Compensation Law and Regulations.

VII. Insurance to be Furnished by Non-Enrolled Trade Partners

- B. **Commercial General Liability Insurance.** Non-enrolled Trade Partners must obtain and maintain Commercial General Liability insurance for the hazards of (i) construction operation, (ii) independent contractors, (iii) products/completed operations, (iv) explosion, collapse and underground (XCU), (v) broad form property damage, (vi) personal injury, (vii) premises operations, and (viii) broad form contractual liability. Such insurance must be written for the following policy limits:

\$1,000,000 Per Occurrence, Combined Single Limit for Bodily Injury and Property Damage

\$1,000,000 Personal & Advertising Injury

\$2,000,000 General Aggregate (Per Project)

\$2,000,000 Products/Completed Operations Aggregate

Non-enrolled Trade Partners must continue to maintain or renew annually Commercial General Liability, including products/completed operations, for a minimum of the **statute of repose for the state in which the project is located** from completion of Non-enrolled Trade Partners' Work on-site, or as required by the Contract Documents, whichever is longer.

- C. **Commercial Automobile Liability Insurance.** Non-enrolled Trade Partners must obtain and maintain comprehensive automobile insurance covering all owned, non-owned and hired automobiles used in connection with the Non-enrolled Trade Partner's Work written for the following policy limits:

\$1,000,000 Combined Single Limit for Bodily Injury and Property Damage per Accident

- D. **Excess/Umbrella Liability.** Non-enrolled Trade Partners must obtain and maintain Excess/Umbrella Liability coverage on a form following primary policy form (General Liability, Automobile Liability and Employers Liability) written for the following policy limits:

\$2,000,000 Per Occurrence

\$2,000,000 Aggregate Limit

Non-enrolled Trade Partners must continue to maintain or renew annually Excess/Umbrella Liability for a minimum of the **statute of repose for the state in which the project is located** from completion of Non-enrolled Trade Partners' Work on-site, or as required by the Contract Documents, whichever is longer.

VII. Insurance to be Furnished by Non-Enrolled Trade Partners

- E. **Design/Professional Liability.** If any design responsibility is included in the scope of Work of a Non-enrolled Trade Partner's Contract, Non-enrolled Trade Partners, or their designers, must maintain or renew annually, for a period of the **statute of repose for the state in which the project is located** after the date of Final Completion, insurance covering claims arising out of the performance or furnishing of design professional services and for claims arising out of allegations of errors, omissions or negligent acts in connection with the Work. The policy must be written for the following policy limits:

**\$1,000,000 Each Claim,
\$1,000,000 Annual Aggregate Limit**

If the Trade Partner's Contract amount exceeds \$25 million, Trade Partner shall evidence higher limits; Trade Partner shall confirm with Contractor the higher limits required.

- F. **Commercial Watercraft and/or Aircraft Liability (if applicable).** If watercraft or aircraft are used in connection with the Non-enrolled Trade Partners' Work, Non-enrolled Trade Partners must obtain and maintain Commercial Watercraft and/or Aircraft Liability insurance covering the use of all owned, non-owned, and hired watercraft and/or aircraft written with a combined bodily injury or property damage limit of **\$50,000,000**.
- G. **Pollution Liability (if Trade Partner's scope of work includes abatement, remediation, or handling of hazardous materials).** The Contractor reserves the right to determine, on an individual Contract basis, whether pollution coverage must be carried by a Trade Partner and what limits will be required. If required, a Trade Partners must furnish insurance providing coverage for Pollution Liability in an amount not less than **\$2,000,000 per occurrence/\$2,000,000 Annual Aggregate** and complying with any other requirements of the Contract Documents. Such coverage shall be maintained or renewed annually for a minimum of the statute of repose for the state in which the project is located.
- H. **Equipment Policy.** Trade Partners must provide property coverage for their equipment and tools brought onto the Project site. Trade Partners waive all rights and claims against Owner, Contractor, Architect, and other trade partners of any tier for damages or losses to their personal property, including, without limitation, their tools, equipment, machinery, mobile construction equipment, vessels, scaffolding and temporary structures, whether owned, used, leased, or rented by Trade Partner, however caused. Trade Partner's insurance policies shall provide for such waiver by endorsement or otherwise. Trade Partner shall be solely responsible for any loss or damage to their personal property, however caused, and shall have no right of recovery against Owner, Contractor, Architect and other trade partners for such loss or damage.
- I. **Manned and Unmanned Aerial Services.** Before contracting for aerial services (such as manned or unmanned aerial photography), Non-Enrolled Trade Partners must show that providers have aviation liability insurance coverage. A compliant certificate of

VII. Insurance to be Furnished by Non-Enrolled Trade Partners

insurance must be provided prior to executing an agreement or commencing services as follows:

- Specifically states that JE Dunn Construction Company and the Owner of the Project are Additional Insureds with respect to Aviation / Aircraft Liability coverage.
- Lists "JE Dunn Construction Company" as the certificate holder. JE Dunn will not accept a "generic," or blank, certificate.
- Shows liability limits maintained on the specific and identified aircraft/drone meeting or exceeding the following:
 - **\$1,000,000** per occurrence (with no per passenger or per person sublimit).
- Includes a statement indicating the policy has been endorsed to waive the insurer's rights to subrogate against JE Dunn and the Owner with respect to claims arising from the use of the aircraft/drone in performing work on behalf of JE Dunn.
- Includes a thirty (30) day written notice of cancellation in favor of JE Dunn.
- States the following on the certificate: "Coverage is primary and without right of contribution of any insurance maintained by JE Dunn Construction Company or [the Owner of the Project]."

Only FAA Part 107 certified and qualified pilots may fly drones on JE Dunn projects, and all required FAA and government waivers must be obtained prior to flight.

2. Conditions

- A. **Insurance Primary.** Non-enrolled Trade Partners agree that all its policies of insurance are primary, non-contributory with and not in excess of Contractor's primary, excess or umbrella insurance or any other insurance available to the Contractor, Enrolled Trade Partners, or Additional Insureds required by Contract.
- B. **Severability of Interest.** General Liability, Excess/Umbrella Liability and Pollution Liability, if any, must be written to provide that, inasmuch as this policy is written to cover more than one insured, all terms, conditions, insuring agreements and endorsements, with the exception of limits of liability, must operate in the same manner as if there were a separate policy covering each insured.
- C. **Waiver of Subrogation.** All policies of insurance, as allowed by law and excluding Design/Professional Liability insurance, that are in any way related to the Work or services of the Project, including those that are secured and maintained by consultants and lower-tier Trade Partners, must include a provision providing that each party and its insurance carrier waive all rights of recovery under subrogation or otherwise against the Owner, Contractor, Architect (if required in the Contract Documents), any Trade Partners of any tier, and any other person or entity required by the Contract Documents, and all their assigns, subsidiaries and affiliates.
- D. **Additional Insureds.** Trade Partner-furnished insurance (except Workers' Compensation Insurance and Design/Professional Liability, if applicable) must include, Owner, Contractor, Architect (if required in the Contract Documents), and any other person or entity required by the Contract Documents, and all their assigns, subsidiaries

VII. Insurance to be Furnished by Non-Enrolled Trade Partners

and affiliates as additional insureds as their respective interest may appear (“Additional Insureds”). Additional Insured status must be provided for ongoing operations and completed operations. Additional Insured endorsements are subject to Contractor review and approval if provided with certificates of insurance. Additional Insured endorsements may not contain time limitation shorter than required by Contract, nor may it alter/limit coverage provided to the Additional Insured. All Limits of Liability available to the Trade Partner will inure to the benefit of the Additional Insureds.

E. **Cancellation Notice.** Policies shall not be canceled, non-renewed or materially changed without the Trade Partner providing sixty (60) days prior written notice to Contractor.

3. **Lower-Tier Trade Partners’ Insurance.** A Trade Partner must require all lower-tier Trade Partners providing labor, equipment, materials or services directly to Trade Partner in connection with the Trade Partner’s Work to obtain, maintain and keep in force coverage in accordance with these insurance requirements.

Trade Partner will not be excused from its obligations to cause such lower-tier Trade Partners to meet the insurance coverage requirements set forth under this section unless Trade Partner obtains in writing from Contractor a waiver, which must be effective only as to such requirements and for such lower-tier Trade Partners specifically identified therein.

4. General Requirements

- A. Certificates of insurance and endorsements complying with these requirements must be received by JE Dunn prior to commencement of a Trade Partner’s Work on the Project and will be a condition to any payment.
- B. All insurance is to be issued by companies acceptable to Contractor but must be provided by companies having at least an A.M. Best rating of A-VI or better and authorized in the state in which the project is located.
- C. Contractor reserves the right to require that Trade Partner provide certified copies of any and all insurance policies and endorsements.
- D. Certificates of insurance are subject to the approval of Contractor. However, any acceptance of a certificate by Contractor does not limit or relieve Trade Partner of its obligations under the Contract or waive Trade Partner’s obligation to maintain such insurance.
- E. Contractor may take such steps as necessary to ensure Trade Partner compliance with the insurance requirements. In the event Trade Partner fails to obtain and maintain the policies of insurance meeting the requirements and minimum limits identified above, Contractor may obtain and maintain such coverage and recover the cost from Trade Partner.
- F. The policies of insurance required above must contain no exclusion for work expressly within Trade Partner’s scope of work (e.g., EIFS, asbestos, etc.) unless Trade Partner has a separate policy providing such coverage and provides evidence of such coverage with limits of liability comparable with above stated limits.

VII. Insurance to be Furnished by Non-Enrolled Trade Partners

- G. The required coverage and limits referred to and set forth herein do not affect or limit Trade Partner's liability with respect to its Contract and its performance or the coverage afforded to an Additional Insured.

VIII. Termination of DCIP and Alternate Insurance

In the event Contractor, for any reason, is unable to provide or, after commencement of Work, elects not to provide or to continue to provide the insurance as specified in Section IX of this Manual then, upon sixty (60) days written notice from Contractor or its designee, the following shall be required of each Enrolled Trade Partner:

The parties previously enrolled or to be enrolled in the DCIP shall obtain replacement insurance with the minimum coverage and limits set forth in Section VII or as otherwise required by Contractor, with insurers acceptable to Contractor. Such insurance shall be obtained before the DCIP coverage terminates, and Trade Partners shall provide Contractor with certificates of insurance or certified copies of policies prior to that date. Trade Partners shall also require all lower tier Trade Partners to obtain such insurance. Contractor shall issue the Trade Partner a change order which reflects the cost of the additional premiums realized by Trade Partner and its lower tier Trade Partners for such replacement insurance.

IX. DCIP Insurance Provided for Enrolled Trade Partners

Contractor will, at its sole expense, maintain the following types of insurance under the DCIP:

1. Commercial General Liability

Coverage is written on an “occurrence” basis. The policy includes:

- ✓ Premises and Operations coverage.
- ✓ Completed Operations coverage based on the relevant state statute of repose, in effect as of the date of project completion.
- ✓ Personal Injury Liability.
- ✓ Contractual coverage for liability assumed under an insured contract as defined by the insurance policy.
- ✓ Broad form property damage.
- ✓ Independent contractors.
- ✓ Explosion, Collapse, Underground (XCU).
- ✓ Employees are insureds under the policy.
- ✓ Separation of insureds, as defined by the standard Insurance Service Office (ISO) policy form.
- ✓ Stop Gap coverage, where applicable.

Projects with a value between \$1M and \$15M:

Coverage is provided with combined limits of \$5,000,000 per occurrence, \$20,000,000 General Aggregate and \$20,000,000 Completed Operations. The limits of liability apply for all projects enrolled in the DCIP and are shared by Contractor and all Enrolled Trade Partners. General Aggregate limits shall be reinstated annually.

Projects with a value exceeding \$15M:

Coverage is provided with combined limits of \$5,000,000 per occurrence, \$10,000,000 General Aggregate and \$10,000,000 Completed Operations. The limits of liability are shared by Contractor and all Enrolled Trade Partners. Aggregates are per project. General Aggregate limits shall be reinstated annually.

The policy will be primary for claims arising from Work under Contract at the Jobsite and noncontributory with any other insurance carried by the Trade Partner for Work performed at the Jobsite.

IX. DCIP Insurance Provided for Enrolled Trade Partners

Specific exclusions:

1. Engineers and Architects Professional Liability exclusion (CG2280)
2. Absolute Pollution exclusion
3. Asbestos exclusion
4. Fungus/mold exclusion

Deductible

Trade Partners will be responsible for payment of a deductible up to \$2,500.00 per occurrence for general liability property damage claims. Such deductibles may be collected through the issuance of a unilateral deductive change order.

Refer to policy for additional terms, exclusions, and conditions. Policy is available from the Contractor or DCIP Administrator upon request.

2. Excess Liability

Coverage varies depending on project value. The policy includes:

Projects with a value between \$1M and \$15M:

Coverage is provided with combined limits of \$50,000,000 per occurrence, \$50,000,000 General Aggregate and \$50,000,000 Completed Operations. The limits of liability apply for all projects enrolled in the DCIP and are shared by Contractor and all Enrolled Trade Partners. General Aggregate limits shall be reinstated annually.

Projects with a value exceeding \$15M:

Coverage is provided with combined limits of \$50,000,000 per occurrence, \$50,000,000 General Aggregate and \$50,000,000 Completed Operations. The limits of liability are shared by Contractor and all Enrolled Trade Partners. Aggregates are per project. General Aggregate limits shall be reinstated annually.

Excess shall not provide excess coverage for Employer's Liability, Automobile Liability, or any type of Liability coverage other than onsite General Liability coverage.

Refer to policy for additional terms, exclusions, and conditions. Policy available from the DCIP Administrator upon request.

DCIP Insurance Carriers

General Liability: Liberty Mutual Fire Insurance Co.

Excess Liability: National Fire & Marine Insurance Co.

Excess Liability: Ohio Casualty Insurance Co.,

IX. DCIP Insurance Provided for Enrolled Trade Partners

Providing the insurance described in this Section IX shall in no way relieve, limit, or be construed to relieve or limit the Trade Partners of any responsibility or obligation whatsoever otherwise imposed by their Contract or by law.

Any type of insurance or increase of limits not described above which the Trade Partner requires for its own protection or on account of statute shall be its own responsibility and at its own expense.

X. Claim Procedures

1. **General Liability Claims – Enrolled Trade Partners:** It is the responsibility of all Enrolled Trade Partners to notify the Contractor of all claims **within 24 hours** of the occurrence by following the procedures below. **Failure to timely notify Contractor of any and all claims could be grounds for denial of coverage.**
 - A. Immediately notify the Contractor’s superintendent or project manager of any property damage or injury involving a third party.
 - B. An Enrolled Trade Partner shall complete a Claim Reporting Form (Section XII *Forms*) and email to claims@jedunn.com **within 24 hours** of the occurrence.
 - C. In the event the Trade Partner is served with a summons or other legal notice involving a claim of personal injury or property damage to a third party related to the Project, a copy of the summons, complaint, or other legal notice shall be forwarded **within 24 hours** of its receipt to the Contractor’s project manager with a PDF copy to claims@jedunn.com. If not previously submitted, a Claim Reporting Form should also be completed, as described above. **Delay in reporting a summons or other legal notice could result in a default judgment against the Trade Partner.**
 - D. Trade Partners shall assist in completing any paperwork (including the Claim Reporting Form), undertaking any investigation of the injury or property damage, and cooperating in any and all activities to bring a claim to resolution. Trade Partner should be prepared to provide:
 - Date, time, and location of the occurrence
 - Name, address, and phone number of the injured person(s) and/or owner(s) of the damaged property
 - Description of the damaged property, if any
 - Name, address, and phone number of witness(es).
2. **General Liability Claims – Non-enrolled Trade Partners:** Non-enrolled Trade Partners shall report any property damage or injury involving a third party directly to their own insurance carrier/broker by following its usual procedures. Non-enrolled Trade Partners shall likewise notify Contractor’s superintendent or project manager of any such occurrence and shall, on request, confirm to Contractor that satisfactory reporting to the insurance carrier has occurred.
3. Enrolled Trade Partners, on a quarterly basis, may request a reporting of the participant’s respective claims details and loss information. An Enrolled Trade Partner may submit their request by email to claims@jedunn.com.
4. Joint Representation. When legal representation is required by two or more parties insured under the DCIP, absent an actual conflict of interest between such insureds, the Insurer shall have the right to retain one attorney to represent all such insureds in any action or proceeding in which more than one insured is named. An insured has an actual conflict, and is entitled to separate counsel, only in the following circumstances:

X. Claim Procedures

- The DCIP Insurer has issued a reservation of rights to one, but not all, insureds joined in such action or proceeding;
- A DCIP Insurer's reservation of rights issued to one insured contains reservations different than a reservation issued to another insured(s) joined in such action or proceeding; or
- Adequate limits of DCIP insurance are not available for the damages sought in such action or proceeding; or
- As addressed by statute.

An insured with an actual conflict of interest may waive such conflict and agree to joint representation. By enrolling in the DCIP, an insured shall be deemed to waive any conflict which does not meet the above definition of an actual conflict, and all insureds agree to perform any additional steps necessary to ensure the waiver of any conflict which does not meet the above definition of an actual conflict.

5. Waiver of Insured Cross-Claims. By enrolling in the DCIP, an insured agrees they are not entitled to make a cross-claim (or any similar legal claim) against another insured if that cross-claim arises from "bodily injury," "property damage," or "personal injury" to which the DCIP applies and for which there is adequate limits of insurance to pay damages in any such proceeding. The insureds agree to perform any additional acts required to initiate the waiver of any such claim. This paragraph does not apply to any suit or claim necessary to trigger DCIP coverage.

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- 2.0 RESPONSIBILITIES
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Note: In addition to the safety information referenced herein, other Project-specific safety requirements have been or may be developed by the Owner and Contractor – such requirements shall also be applicable to all Trade Partners, suppliers, and other related parties at the Project Site.

1.0 INTRODUCTION & POLICY STATEMENT

The project team is totally committed to providing each worker a safe and healthful workplace. To accomplish this objective, it is necessary that an effective and understandable safety and health policy be defined and enforced consistent with nationally recognized standards.

The success of the safety program requires the combined efforts of the Contractor, Trade Partners, and all employees. It is very important that the team addresses this objective in order to maintain the safest and most successful projects in the construction industry.

The Contractor's national Safety and Health Program can be found at http://sms.jedunn.com/safety_program. Adherence to the Safety and Health Program is a **requirement** for all of the Contractor's partners on all of its projects.

Additionally, the Contractor and DCIP Administrator have prepared DCIP-specific Project Safety Requirements. The Safety and Health Program, as well as the DCIP-specific Project Safety Requirements, are binding terms for all Enrolled and Non-enrolled Trade Partners. **Together, these two items comprise the core of the *Project Safety Program* for any DCIP Project.**

It is a requirement of all Trade Partners that the Safety and Health Program, including the DCIP-specific Project Safety Requirements and any contract provisions necessary to operate and enforce the Project Safety Program successfully, be included in all Project contracts and subcontracts to the lowest tier. The Contractor shall be responsible for the proper execution of the project loss control program.

It is not the intention of the Project Safety Program to be all-inclusive. It is however, an attempt to provide the Trade Partners and their employees with basic safety and health requirements as well as provide requirements that may be in addition to Occupational Safety and Health Act (OSHA) regulations. It is incumbent on all parties to follow the best and highest safety practices in all aspects of their activities at all times.

In the event of a conflict and/or ambiguity between various statutes, law, regulations or standards and this Project Safety Program, interpretation by the Contractor's Safety Manager will be final.

1.1 Definitions

The definitions set forth in Section II of this Manual shall apply to the Project Safety Program. The following additional definitions also apply:

- A. Project Safety Program: shall be comprised of the Contractor's national Safety and Health Program, the DCIP-specific Project Safety Requirements, OSHA regulations, other applicable regulations (federal, state or local), and any contract provisions necessary to operate and enforce the program.

XI. DCIP Project Safety Program

- B. Contractor's Representative: the person(s) designated by the Contractor as having the responsibility to monitor the Project Safety Program.
- C. Trade Partner Safety Representative: the individual on the payroll for each Trade Partner responsible for monitoring compliance with the Project Safety Program and the respective Trade Partner's own safety plan.

2.0 RESPONSIBILITIES

Trade Partners shall comply with the Project Safety Program. Each Trade Partner shall retain primary responsibility for its work and its employees. Each Trade Partner shall also be responsible for its lower tier Trade Partners' compliance with the Project Safety Program.

All Trade Partners shall require their employees to complete a project safety orientation prior to being able to enter the work area. Training shall include introduction to the Project Safety Program, as well as proper use of personal protective equipment requirements such as hard hats, safety glasses, ear protection, foot protection, and clothing requirements. It is the Trade Partner's responsibility to provide task specific safety training for their workers.

Trade Partner's personnel, employees, suppliers, consultants, agents and visitors shall, when upon or about the Project site, observe and comply with the strictest provisions of all federal, state, or local safety, fire, and environmental laws, rules, and regulations and as otherwise prescribed by the Project Safety Program or any other legal requirements.

Failure to comply with the Project Safety Program will be considered as noncompliance with the Contract and may result in remedial action, including withholding of payment of any sums due and/or termination of the Trade Partner and from the site.

Trade Partners shall take all necessary precautions to protect the public from any hazards involving safety and health arising from their scope of work. All construction activities shall be isolated from the public to the greatest extent possible.

Each Trade Partner will be responsible for the payment of all fines and/or claims for damages levied against them for safety or environmental violations or deficiencies related to the conduct of their employees or Work.

The Contractor and/or the Contractor's Representative shall have the authority to stop work in progress when necessary to enforce mandatory safety requirements. The Contractor shall not be liable for any damages experienced by Trade Partner due to stoppage. No part of the time lost due to any such stop work order shall be made the subject of a claim for extension of time or increased costs by Trade Partner.

Each Trade Partner is required to name an individual on its payroll as Trade Partner Safety Representative. Each Trade Partner Safety Representative shall have the experience, ability, and authority to act on the respective Trade Partner's behalf in matters of safety on the Project. This individual shall, at a minimum, be certified in the OSHA 10 Hour hazard recognition course within 60 days of Contract award. The Trade Partner Safety Representatives shall be allowed adequate time to conduct all necessary safety activities

XI. DCIP Project Safety Program

required by the Project Safety Program for the successful operation of the Safety Program. Costs of Trade Partner's participation in the activities are the responsibility of the Trade Partner. Selection of these representatives is subject to approval of the Project Safety Manager. Each Trade Partner Safety Representative will become a member of the Project Safety Committee(s) and will be expected to attend all committee meetings called by the Contractor.

Trade Partners shall provide the following items:

- A copy of the Trade Partner's safety plan;
- A copy of their OSHA Hazard Communication Program;
- A list of the chemicals used on the Jobsite in the performance of the Work;
- Copies of Material Safety Data Sheets (MSDS) for each covered chemical used on the Jobsite;
- Documentation for any required training for Project employees as it applies to their Work;
- Copies of accident investigation (within 24 hours of occurrence) for any incident or near miss occurring on the Project site;
- Records, including the OSHA 300 log, of occupational injuries and illnesses that occur on the Jobsite;
- Records of the disposal of chemicals/materials or any other hazardous wastes used on the Jobsite in the performance of the Contract; and
- Proof of compliance with storm water discharge environmental regulations. (The Contractor, and its option, may choose to create and maintain this documentation for the Trade Partners.)

Employees are prohibited from use and possession of alcoholic beverages or drugs (other than prescription) while performing Work on the Project or attending Project sponsored activities. Carrying weapons or ammunition on the Project Site is also prohibited. Trade Partner further agrees to comply with any postings or notices placed on site by the Contractor's representative or the Project Safety Manager regarding safety, security, or weapons.

The Contractor has adopted a policy of a drug free work site on the project, which may include, but is not limited to pre-work, just cause, and post-accident drug screening.

Any employee involved in an accident or incident that results in an injury or property damage will be **required** to submit to a **post-incident drug test**. In cases of an on-the-job injury, such tests will be administered at the time an injured worker receives medical treatment resulting from the incident. Testing is not limited to the injured employee but

XI. DCIP Project Safety Program

may be required of all or any person(s) involved in the incident as required by the Project Safety Manager. The testing methods, procedures, and protocols utilized will be subject to approval by the Project Safety Manager. The cost of the drug test is the responsibility of the Trade Partner.

The Trade Partner shall provide, or cause to be provided, to each worker on the Jobsite the proper safety equipment for the duties being performed by that worker and will not permit any worker on the job site who fails or refuses to use the same.

In addition to task specific safety training, each Trade Partner shall conduct weekly toolbox talks. Safety meetings shall be documented by subject, date and time, and attendees' names. A copy of the toolbox talk must be transmitted weekly to the Project Safety Manager. If the limited number of employees of the Trade Partner on site makes such a talk impractical, such employees shall attend the weekly toolbox talk scheduled by the Contractor. Various training materials are available through trade associations, insurance companies, and the Project Safety Manager.

Any Trade Partner that is involved in "high hazard" work will be required to provide notification of the start of such activity to the Project Safety Manager prior to the commencement of such activity. Such scopes and activities include but are not limited to critical lifts with cranes, hot work, trenching and excavations, work at heights, steel erection, precast erection, work near overhead power lines, utility tie-ins, pneumatic tests, and confined space entry work.

The Contractor may request the removal from the project of any Trade Partner or lower tier Trade Partner personnel, management, supervision, or craft for noncompliance with the Project Safety Program or non-correction of hazards. This request for removal may also apply to any individual who, in the opinion of the Contractor and the Project Safety Manager, exhibits an unsafe behavior attitude. The Contractor and/or the Project Safety Manager shall not be liable for any damages experienced by any Trade Partner due to removal of Trade Partner's personnel, management, supervision, or craft from the Site.

Trade Partners are required to discipline employees who violate established rules and regulations of the Project. The Trade Partner's disciplinary procedures will meet or exceed those provided for in the Project Safety Program.

3.0 HAZARD NOTIFICATION

Imminent danger situations brought to the attention of the Contractor shall be corrected immediately. Other unsafe conditions will be conveyed via a written hazard alert. The Trade Partner, within one (1) working day of issuance, must correct the hazards and/or unsafe acts or remove the defective equipment from the Project. Upon expiration of the one working day (24-hour period), the Contractor may stop work until the hazard is abated. Lost time, lost productivity, or other expenses as a result of this hazard and/or safety violation will be at the sole cost of the Trade Partner.

Trade Partners encountering safety hazards beyond their control or expertise to correct are encouraged to notify the Contractor of their concerns. Failure on the part of the Contractor

XI. DCIP Project Safety Program

to observe or deter unsafe work practices shall in no way relieve any Trade Partner of its safety responsibilities. Lack of cooperation in complying with these requirements will be considered non-compliance with the Contract and may result in a remedial action including, but not limited to, withholding of payments due the Trade Partner or correction of the hazard by the Contractor with the cost deducted from the Trade Partner's Contract.

XII. Forms

- A. Trade Partner Enrollment Application – GL Only Program
- B. Certificate of Insurance – Enrolled
- C. Certificate of Insurance – Non-enrolled
- D. Claim Reporting Form

**Dunn Controlled Insurance Program
Trade Partner Enrollment Application – GL Only Program**

Prime Trade Partner

Project Name: _____

Company Name: _____

Enrollment Contact: _____
Name _____ *Phone* _____ *Fax* _____
E-mail Address: _____

Company Address: _____
Street Address _____

City _____ *State* _____ *Zip* _____

Federal Employer's Identification Number (FEIN): _____ Contract Value: _____

Scope of Work: _____ Estimated Start Date: _____

Who holds your Contract (JE Dunn or other)? Specify: _____

If you are subcontracting any of your work, please fill out the following. Please keep in mind YOU will be held responsible per contract for notification of any and all additional subcontracts issued under YOU. This means at any tiers.

LOWER TIER TRADE PARTNER ONE:

Company Name: _____

Enrollment Contact: _____
Name _____ *Phone* _____ *Fax* _____
E-mail Address: _____

Company Address: _____
Street Address _____

City _____ *State* _____ *Zip* _____

Federal Employer's Identification Number (FEIN): _____ Contract Value: _____

Scope of Work: _____ Estimated Start Date: _____

LOWER TIER TRADE PARTNER TWO:

Company Name: _____

Enrollment Contact: _____
Name _____ *Phone* _____ *Fax* _____
E-mail Address: _____

Company Address: _____
Street Address _____

City _____ *State* _____ *Zip* _____

Federal Employer's Identification Number (FEIN): _____ Contract Value: _____

Scope of Work: _____ Estimated Start Date: _____

If you have additional lower tier trade partners, please submit them on an attached sheet with this application.

Signature of Company Officer: _____ Date: _____

Please return this completed form to the Project Management staff for this project.



CERTIFICATE OF LIABILITY INSURANCE

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

PRODUCER Broker Name [Name, Address]	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : A- VI or Higher	
INSURED Trade Partner [Name, Address]	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MMDD/YYYY)	POLICY EXP (MMDD/YYYY)	LIMITS
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						EACH OCCURRENCE \$ 1,000,000 EXPENSE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y				
<input checked="" type="checkbox"/>	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
<input type="checkbox"/>	UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED RETENTION \$						EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
<input type="checkbox"/>	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
JE Dunn Construction Company, Owner; Architect (if required in the Contract Documents); and any other person or entity required by the Contract Documents, and all their assigns, subsidiaries and affiliates are included as additional insured on a primary & non-contributory basis for ongoing and completed operations as respects liability coverage, excluding workers compensation a waiver of subrogation in favor of the additional insured parties applies where allowed by law, 60 days' notice of cancellation will be provided to the Certificate Holder.
***Umbrella/Excess must follow form and extend over general liability, auto liability, employer's liability, and include severability of interest; Workers compensation must be written on NCCI WC 00 00 00 coverage form or it equivalent.**

CERTIFICATE HOLDER JE Dunn Construction Company 1001 Locust Street Kansas City, MO 64106	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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ACORD 25 (2016/03)

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CLAIM REPORTING FORM
 (Use for all claims except workers' comp. and auto)

Project name: _____ JE Dunn project no.: _____ Project start date: _____
 Project address: _____ City: _____ State/ZIP: _____
 Claim contact: (JE Dunn or trade partner (name, company, email and phone no.)) _____

Date of incident: _____ Time of incident: _____

Brief description of incident: (Describe events, conditions, or action taken. Give **facts** only.)

List of person(s) involved or witness to the incident:

Name	Company	Phone no.	Claimant (C), Employee (E), Witness (W) or Other (O)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Person completing the form:

 Name (print) Signature Company/employer Phone no. Date of report

For internal use only:		<input type="checkbox"/> "Notice only"
Coverage	<input type="checkbox"/> GL <input type="checkbox"/> BR <input type="checkbox"/> Other: _____	
GL program	<input type="checkbox"/> Traditional <input type="checkbox"/> DCIP	1-15 Over 15
		Dunn I Dunn II Dunn III Dunn IV Dunn V Dunn VI Dunn VII
Excess	\$_____ If left blank, Lockton will notify all excess carriers.	<input type="checkbox"/> Notice only <input type="checkbox"/> Discussion needed
Office code: _____	Project code: _____	Contractor code: _____

Please email this completed form **within 24 hours** of the incident to claims@jedunn.com

SECTION 00 73 19
SAFETY REQUIREMENTS



PART 1 - GENERAL

1.1 SUMMARY

- A. Reference the Contractor's Safety Program at the following location:
https://sms.jedunn.com/safety_program. The latest version must be followed.
- B. Safety on the Project site is a primary concern to the Owner and Contractor. Each Subcontractor is responsible for the safety and security of its personnel.
- C. All Subcontractors and lower-tier subcontractors are required to follow all of Contractor's safety requirements, as well as OSHA, state, and local safety regulations.
- D. Provide the proper training and equipment necessary to ensure that Contractor's personnel follow all of Contractor's safety requirements, and OSHA, state, and local safety requirements.
- E. Inspect Contractor's own work areas periodically throughout the day for recognizable safety hazards and for taking immediate corrective actions to provide a safe work environment at the site.
- F. Safety Representative: Assign a competent individual to act as the Subcontractor's safety representative. This individual must be on site and have the authority to immediately correct hazardous conditions. Submit the name of the on-site representative to the Contractor before the Subcontractor begins Work on site.

1.2 DISCIPLINARY POLICY

- A. Failure to follow safety requirements may result in disciplinary action up to and including the removal and replacement of personnel and site foreman per Contractor's safety policy.
- B. Replace foreman and personnel who are unable or unwilling to follow the Project safety requirements.
- C. Subcontractor must enforce its safety program and OSHA requirements as it relates to its work at the Project.
- D. Failure to correct safety issues in a timely manner may result in Contractor directing a correcting subcontractor to take action and a back charge may be issued to the creating Subcontractor.

1.3 TRAINING REQUIREMENTS

- A. Copies of all training must be forwarded to the Contractor's site office. This documentation must include a detailed description of the items covered in the training and the signatures of the attendees.

1.4 ORIENTATION

- A. All tradespeople will be required to complete the Contractor's safety orientation prior to starting their Work on site.

1.5 TASK-SPECIFIC TRAINING

- A. Subcontractor must provide task-specific training to ensure that each of its personnel knows how to perform his or her work in a safe manner.

- B. If Owner, Contractor, and/or Subcontractor identify a safety issue concerning a particular crew, Subcontractor must provide task-specific training for that crew, on a minimum of a weekly basis.

1.6 SAFETY SUBMITTALS

- A. Safety and Health Program/Hazard Communication: Prior to the start of Work, Subcontractor shall provide copies (including a physical, hard copy) to the Contractor of its safety and health program, its Hazard Communication program, an inventory list of all products to be used on site, and all corresponding Safety Data Sheets for these products.
- B. Scope-Specific Hazard Plans and associated Training Records: Prior to the start of Work, Subcontractor shall submit to the Contractor scope-specific hazard plans, which plans shall include but not be limited to: Hazard-Specific Employee Training, Designated competent/qualified persons, engineered plans, hoisting plans, fall protection plans, erection plans, bracing and shoring plans, lock out/tag out plans, confined space plans, or other plans the Contractor deems necessary to provide a safe work environment.
- C. Silica: Subcontractor shall comply with OSHA Silica Standard (1926.1153). Subcontractor shall submit a written exposure control plan, provide a trained competent person, and provide Silica Awareness training to all onsite personnel for any potential exposure to respirable crystalline silica.
- D. JHA: Subcontractor shall submit a scope specific Job Hazard Analysis (JHA) to the Contractor prior to the start of Work.
- E. JSA: Subcontractor shall submit a scope specific Job Safety Analysis (JSA) to the Contractor daily while on site.
- F. Reoccurring safety documentation submittals: Submit JSAs, Toolbox Talks, Safety Observation, Inspections, Checklist, Permits, and any other required documentation to Contractor electronically via Autodesk Construction Cloud for the Project.

1.7 PERSONAL PROTECTIVE EQUIPMENT (PPE)

- A. An OSHA-approved hard hat or helmet style head protection shall be worn by all personnel and visitors on the jobsite at all times.
- B. American National Standards Institute (ANSI) Class 2 high visibility upper body garments and proper clothing shall be worn, suitable for construction work. Shirts and long pants shall be worn at all times.
- C. Sturdy, heavy-duty, hard-soled work boots with over-the-ankle support are required; canvas or leather type athletic shoes and shoes without heel or toe coverings are not permitted.
- D. Gloves with a minimum ANSI Level A4 at a minimum or gloves appropriate to the task are required, along with safety glasses and side shields.
- E. Subcontractor shall furnish all other PPE to its personnel as required.

1.8 FIRST AID

- A. The Contractor will maintain a first aid center at the Project office. The Contractor will have phone numbers of the local clinics and hospitals posted at all times.

1.9 INCIDENTS

- A. All incidents including, but not limited to, injuries, fires, property damage, spills and near misses, must be immediately reported to Contractor.

1.10 HOUSEKEEPING

- A. Maintain good housekeeping at all times. All stripped lumber shall be safely stacked after nails have been removed or bent down. All stairways, scaffolds, ramps, walkways, and work areas shall be kept clear and clean of trash and material. Maintain Work areas free from accumulation of combustible trash.
- B. Clean Subcontractor's Work areas each day. Failure to clean work areas each day may result in Contractor directing a correcting subcontractor to take action and a back charge may be issued to the creating Subcontractor.

1.11 GFCI

- A. Provide ground-fault circuit interrupter (GFCI) protection for Subcontractor's Work when using generators or permanent electrical installations.

1.12 STRETCH AND FLEX

- A. Required daily by each Subcontractor.

END OF SECTION

SECTION 00 73 36
EQUAL OPPORTUNITY



PART 1 - GENERAL

1.1 SUMMARY

A. Contractor is an Equal Employment Opportunity employer. As such, the requirements of 41 CFR 60-1.4(b) are incorporated by this reference, if applicable. Contractor and Subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or for inquiring about, discussing, or disclosing compensation. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

1.2 PARTICIPATION

A. Subcontractor or Supplier and its sub-subcontractors and suppliers are strongly encouraged to contract with disadvantaged business enterprises ("DBE") (e.g., minority-owned, women-owned, veteran-owned, veteran disability owned, etc.) to construct the Project. Subcontractor or Supplier may be required to report to Contractor the DBE participation and outreach efforts in connection with Subcontractor's or Supplier's Work on the Project as part of Contractor's efforts to monitor DBE utilization on Contractor's projects.

END OF SECTION