



Williams County LEC Infirmary Front End Documents

Owner

WILLIAMS COUNTY ND
PO BOX 2047
WILLISTON, ND 58802-2047

Architect

ENGINEERS-ARCHITECTS PC DBA EAPC
3100 DEMERS AVE
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 the 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 no 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 via Addendum.
- 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

SECTION 00 31 13
MILESTONE SCHEDULE OF CONSTRUCTION

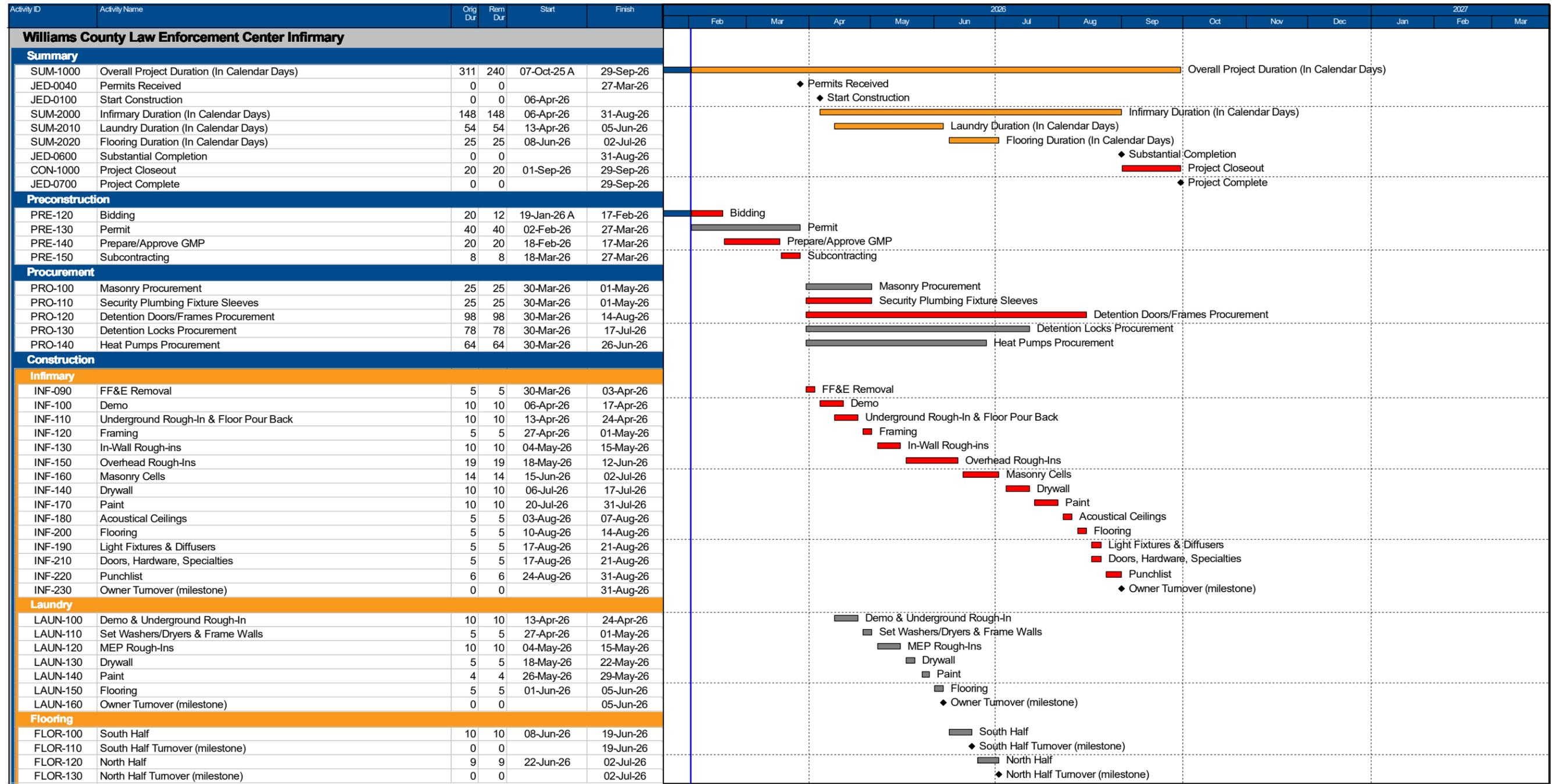


PART 1 - GENERAL

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



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



Owner: **WILLIAMS COUNTY ND**

Project: **Williams County LEC Infirmery** J.E. Dunn Project No.:
25038500

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.
- B. 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 this Section. The Bidder shall include in its Bid all costs associated with executing the form of Agreement provided herein.

END OF SECTION

Subcontract



This Subcontract, dated 12/3/2025, is made by and between:

The Contractor:	J.E. Dunn Construction Company 766 Elks Drive Dickinson, ND 58601
And Subcontractor:	
For the Project:	Williams County LEC Infirmary 206 East Broadway Williston, , ND 58801 JE Dunn Project No. 25038500
The Owner of the Project is:	WILLIAMS COUNTY ND PO BOX 2047 WILLISTON, ND 58802-2047
The Architect for the Project is:	ENGINEERS-ARCHITECTS PC DBA EAPC 3100 DEMERS AVE GRAND FORKS, ND 58201

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 to the extent such unsafe condition was caused by Subcontractor. 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 include the following documents and those documents referenced therein, which documents are incorporated by reference:

- (a) This Subcontract and all Exhibits attached to this Subcontract (collectively, the “Subcontract”): (i) Exhibit A: Documents Incorporated by Reference; (ii) Exhibit B: Subcontract Sum and Scope of Work; (iii) Exhibit C: Supplemental Conditions; (iv) Exhibit D: Owner’s Tax Exemption; (iv) Exhibit E: Subcontractor Insurance Requirements; and (v) Exhibit F: General Requirements;
- (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 Prime 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. To the extent Prime Contract provisions apply to Subcontractor or the Work of this Subcontract, Contractor assumes toward Subcontractor all of the obligations and responsibilities that Owner, under the Prime Contract, assumes toward 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; 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 govern if any conflict or inconsistency arises 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.

Section 4.03 The following definitions apply to the Work and Exhibit B:

- (a) "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 (e.g., proper container, lift gate, and other required items).
- (b) "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 Subcontractor's 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 or Contractor after proper inventorying of materials and/or equipment supplied by others.
- (c) "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.

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. 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 written notice of the delay to Contractor in accordance with Section 7.02. 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 reasonably 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 Subcontractor's 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, 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 oral 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 seven (7) 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 seven (7) 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 seven (7) 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. Subcontractor waives any claim not submitted in strict accordance with the requirements of this Section.

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 F.

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.

Subcontract



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 reasonable attorneys' and consultants' fees and other legal fees and disbursements, caused 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, sweep, 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.

Section 8.15 Subcontractor shall comply and shall require its lower tier subcontractors to comply with Contractor's Anti-Harassment Policy, found at <https://sms.jedunn.com/> (which is incorporated in this Subcontract by this reference).

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) Subcontractor shall be in default of this Subcontract if, at any time, it: (1) refuses or neglects to supply sufficient and properly skilled workers; (2) refuses or neglects to supply materials of the proper quality; (3) fails in any respect to prosecute the Work with promptness and diligence; (4) makes a general assignment for the benefit of its creditors, has a receiver appointed to take over its affairs, or, in the opinion of Contractor, becomes financially or legally incapable of completing the work; or (5) fails in the performance of any of the covenants contained in this Subcontract. If Subcontractor fails to correct its default with diligence and promptness within three (3) days after written notice from Contractor, then 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 reasonable attorneys' and consultants' 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 is 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 reasonable attorneys' and consultants' 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. Subcontractor agrees to provide any additional releases, waivers, statements of account, invoices, Change Orders, Change Order requests, or any other documents reasonably required by Contractor to evaluate and effectuate timely payment of a Claim, including, but not limited, documents requested to verify amounts to which Subcontractor's lower-tier subcontractors and suppliers may be entitled. 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 reasonable attorneys' and consultants' 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 reasonable attorneys' and consultants' 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

Section 11.01 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

Section 12.01 Subcontractor shall comply with the requirements of Exhibit E. Subcontractor's compliance with the requirements of Exhibit E is a condition precedent to payment. Subcontractor's failure to comply with the requirements of Exhibit E is a material breach.

Article XIII. BONDS

Section 13.01 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 not 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 and subject to Section 9.02, 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' and consultants' fees, incurred in connection with prosecuting or defending against that claim. To qualify as a prevailing Party, a Party must either successfully defend against a claim asserted against it or recover monetary or equitable relief on a claim that the Party asserts. Subcontractor shall pay any reasonable attorneys' and consultants' 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 rights 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, that if Owner terminates Contractor for convenience and Contractor accordingly terminates Subcontractor for convenience, 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. To the extent Contractor consents to a collateral assignment, 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 Subcontract 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. This 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.

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.

Section 16.08 Each Party recognizes that this Subcontract is a legally binding contract and acknowledges that it has had the opportunity to consult with legal counsel of its choice. In any construction of the terms of this Subcontract, the terms shall not be construed against either party on the basis of that party being the drafter of such terms.

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

Subcontract



CONTRACTOR: J.E. Dunn Construction Company

SUBCONTRACTOR:

Signed:

Signed:

Name:

Name:

Title:

Title:

License No.:

License No.:

FEIN:

(if no FEIN, enter business owner SSN)

Exhibit A: Documents Incorporated by Reference (Front End)
Williams County LEC Infirmary
206 East Broadway
Williston, ND 58801
J.E. Dunn Construction Project No. 25038500



Subcontractor/Vendor acknowledges that a .pdf copy of the Prime Contract and other documents listed below are available for review and copying through the Project website established for this Project at the following link: _____

1. Prime Contract dated _____, including any General and Supplementary Conditions, and all exhibits and amendments thereto.
2. Contractor's Front End Documents dated _____, and all supplements and amendments thereto.
3. Project Manual, prepared by _____ dated _____.
4. Drawings and Specifications prepared by _____. A list of the Drawings is as follows:
 - A. Bid Package No. __: _____
 - B. Bid Package No. __: _____
 - C. etc
5. Addenda as follows: _____

Exhibit B: Subcontract Sum & Scope of Work (Front End)
Williams County LEC Infirmery
206 East Broadway
Williston, ND 58801
J.E. Dunn Construction Project No. 25038500



SUBCONTRACTOR NAME
SUBCONTRACTOR ADDRESS

SUBCONTRACT SUM

The Subcontract Sum for this Subcontract shall be OR shall not exceed the Guaranteed Maximum Price (GMP) of: _____
(\$_____). If GMP, Attachment 1 to this Exhibit sets forth the terms of the GMP.

Unit prices for this Subcontract Sum, if any, are:

1. Unit Price Description - Unit Price Amount: \$Amount/Unit

Allowances included in this Subcontract Sum, if any, are:

1. Allowance Description - \$Amount

The Alternates included in the Subcontract Sum for this Subcontract, if any, are:

1. Alternate # - Alternate Description: \$Amount ADD / DEDUCT

Other Alternates NOT included in the Subcontract Sum for this Subcontract, if any, are:

1. Alternate # - Alternate Description: \$Amount ADD / DEDUCT

Scope of Work to follow

Exhibit C: Supplemental Conditions
Williams County LEC Infirmary
206 East Broadway
Williston, ND 58801
J.E. Dunn Construction Project No. 25038500



The Subcontract is modified as follows:

1. Section 5.10 is added to the Subcontract:

Section 5.10 Ten percent (10%) retainage shall be withheld from each progress payment until the completion of fifty percent (50%) of (a) the Project, or (b) the Work of this Subcontract, whichever occurs later. At such time, if the progress of the Work is satisfactory to the Owner and Contractor, remaining progress payments shall be made in full; provided, however, that the retainage previously accumulated may be held until final completion. If at any time Contractor determines that progress or performance of this Subcontract is unsatisfactory, retainage of ten percent (10%) may be reinstated in full.

2. Section 8.16 is added to the Subcontract:

Section 8.16 Subcontractor shall not employ personnel, means, materials or equipment which may cause strikes, work stoppages or labor interferences.

3. Section 16.09 is added to the Subcontract:

Section 16.09 Because the site of the Project is the Williams County Correctional Center, which operates as the Owner's jail, no individual who is a named defendant in any active criminal case may work on the Project site at any stage of the Work. To comply with this provision, the Subcontractor, prior to beginning any of the Work on the Project site, shall provide the Contractor with a written list of all individuals who will perform any Work on the Project site during any part of the Project to allow the Owner to ascertain if any individual is a named defendant in any active criminal case and his prohibited from working on the Project site.

Exhibit E: Subcontractor Insurance Requirements
Williams County LEC Infirmary
206 East Broadway
Williston, ND 58801
J.E. Dunn Construction Project No. 25038500



CONTROLLED INSURANCE PROGRAM – ONSITE GENERAL LIABILITY ONLY

1. Contractor has elected to provide onsite General Liability insurance through a Controlled Insurance Program (“CIP”) for Contractor and enrolled subcontractors. The Subcontract Sum includes the cost of providing and maintaining the specific insurance coverage required by the Controlled Insurance Program Requirements and Forms manual (“CIP Manual” or “DCIP Manual”), as set forth in the Front End Documents. Note, in the DCIP Manual, Subcontractor is referred to as a "Trade Partner," which is defined as: "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." The Subcontract Sum specifically excludes costs of onsite General Liability coverage for enrolled Subcontractors.
2. Subcontractor shall comply, and shall require its lower tier subcontractors to comply, with all requirements in the CIP Manual for enrolled or non-enrolled subcontractors, as applicable. The following parties are required to be named as additional insureds on liability policies required to be provided by Subcontractor and its lower-tier subcontractors:
 - A. Owner – WILLIAMS COUNTY ND
 - B. Contractor – J.E. Dunn Construction Company
 - C. Architect - ENGINEERS-ARCHITECTS PC DBA EAPC and Architect's consultants
 - D. Other parties required by the Prime Contract
3. Subcontractor shall ensure that its lower tier subcontractors include the cost of providing and maintaining the specific insurance coverage required by the CIP Manual, but exclude costs of onsite General Liability coverage for enrolled Subcontractors.

MISCELLANEOUS PROVISIONS

1. Subcontractor shall provide insurance for its tools and equipment at its own cost and waives all rights against Owner, Contractor, Architect and other subcontractors of any tier for damages or losses to such tools and equipment, however caused. Subcontractor’s insurance policies shall provide for such waiver by endorsement or otherwise.
2. Contractor and Subcontractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Owner, the Architect, the Architect’s consultants, separate contractors, 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 provided under the Prime Contract or other property insurance applicable to the Work, to the extent such subrogation rights are waived under the terms of the Prime Contract, or covered by property insurance provided by Contractor applicable to the Work, except such rights as they may have to proceeds of such insurance. The Subcontractor shall require of the Subcontractor’s Sub-subcontractors, agents and employees, by appropriate agreements, written where legally required for validity, similar waivers in favor of the parties enumerated in this Subcontract. In the event of an insured loss arising out of Subcontractor’s Work, Subcontractor shall be responsible for payment of the deductible to the extent Subcontractor caused or could have prevented the loss. Coverage information, including the deductible for damages arising out of Named Windstorms, is available from Contractor upon request. The deductibles for losses covered by Builder’s Risk insurance provided for the Project, include, but are not limited to, the following:
 - A. General All Risk covered perils: \$25,000
 - B. Water related damages (other than Flood): \$150,000



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 Purchase Order (“MPO Contract”) included in this Section 00 52 00.20.
- B. 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 this Section. The Bidder shall include in its Bid all costs associated with executing the form of Agreement provided herein.

END OF SECTION

Materials and Equipment Purchase Order



This PO, dated 12/3/2025, is made between:

The Contractor:	J.E. Dunn Construction Company 766 Elks Drive Dickinson, ND 58601
And Vendor:	
For the Project:	Williams County LEC Infirmary 206 East Broadway Williston, , ND 58801 JE Dunn Project No. 25038500
The Owner of the Project is:	WILLIAMS COUNTY ND PO BOX 2047 WILLISTON, ND 58802-2047
The Architect for the Project is:	ENGINEERS-ARCHITECTS PC DBA EAPC 3100 DEMERS AVE GRAND FORKS, ND 58201

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

CONTRACTOR: J.E. Dunn Construction Company	VENDOR:	
Signature: _____	Signature: _____	
Name: _____	Name: _____	
Title: _____	Title: _____	
License No.: _____	License No.: _____	
	FEIN: _____	
(if no FEIN, enter business owner SSN)		

MATERIALS AND EQUIPMENT PURCHASE ORDER TERMS AND CONDITIONS

Article I. CONTRACT DOCUMENTS

Section 1.01 The Contract Documents for this Material and Equipment Purchase Order (“PO”) consist of the following: (a) Material and Equipment Purchase Order, these Terms and Conditions, Exhibit A: Documents Incorporated by Reference, Exhibit B: Contract Sum & Scope of Work, Exhibit C: Supplemental Conditions, Exhibit D: Owner’s Tax Exemption, and any other attached Exhibits; (b) the provisions of the Prime Contract between Owner and Contractor identified in the PO, and all Modifications thereto; (c) Drawings and Specifications, as identified in the PO, and all Modifications thereto; and (d) all other documents identified in the PO. To the extent of a conflict between these Terms and Conditions and the Prime Contract, these Terms and Conditions shall govern such conflict.

Materials and Equipment Purchase Order



Section 1.02 Vendor shall assume toward Contractor all obligations and responsibilities that Contractor, by way of the Prime Contract, assumes toward Owner and shall have the benefit of all rights, remedies, and redress against Contractor that Contractor, by those same Prime Contract terms, has against Owner, insofar as applicable to Vendor.

Article II. VENDOR'S OBLIGATIONS, ACKNOWLEDGEMENTS & WARRANTY

Section 2.01 Vendor shall comply with all terms of the PO. By the dates established by Contractor, Vendor shall provide all materials and equipment (collectively, "Goods") and all installation, commissioning, or other services (collectively, "Services") (Goods and Services collectively, the "Work") as required by the Contract Documents and in conformance with the Contract Documents, including the Schedule, Specifications, and Drawings. Contractor shall be entitled to reject any Goods or Services not in compliance with the Contract Documents. Vendor shall timely submit or resubmit any and all shop and fabrication drawings, design and performance data, certificates, tests, samples, operating and/or maintenance manuals, schedules, color selections and descriptive product data required by the Contract Documents. Approval of any of the foregoing by Contractor shall not alter the requirements of any Contract Documents for quality, quantity, finish, dimension, design, and configuration; nor shall such approval or the lack thereof relieve Vendor of any of its responsibilities to Contractor pursuant to the PO.

Section 2.02 By executing the PO, Vendor warrants the following:

- (a) Title to the Goods shall, contingent upon payment by Contractor, vest in Contractor directly upon delivery at the Project site, or such location as directed, free and clear of any security interest, claim, or lien of any nature;
- (b) Unit prices listed for open quantity orders shall remain firm until the Delivery Date;
- (c) Vendor has included the cost of all Goods, Services, designs, drawings, tests, samples, field measurements, mockups, shipping, and delivery required or necessitated by the PO in the Contract Sum; and
- (d) All Goods shall be new unless otherwise specified, all Goods and Services shall be free from defect and shall conform with the requirements of the Contract Documents (as applicable), all such Goods and Services not conforming to these standards may be considered defective, and Vendor shall bear the entire cost of altering, reworking, and refinishing any manufactured or fabricated any such defective Work. Such warranty shall survive delivery and shall not be deemed waived either by reason of Contractor's acceptance of Goods or Services 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 any Contract Documents.

Section 2.03 Time is of the essence for delivery of the Goods and/or performance of the Services, and Contractor is relying on such delivery or performance by the dates established in this PO and as otherwise required by the Contract Documents in order to timely complete the Project. Vendor acknowledges and warrants that payment by Contractor, under the PO, is conditioned upon timely delivery to Contractor of any Goods and/or performance of any Services in sound, usable, and acceptable condition and fully complying with the Contract Documents. Nothing in the PO shall be construed to create a contractual relationship between Contractor and any shipper of Goods retained by Vendor. Vendor is solely responsible for arranging for delivery of Goods without liability to Contractor. The risk of loss for Goods covered by the PO, whether in a deliverable state or otherwise, shall remain with Vendor until delivered to the location as herein directed, and actually received by Contractor, and any damage to Goods or loss of any kind occasioned in transit shall be borne by Vendor notwithstanding the manner in which Goods are shipped or who pays the freight or other transportation cost. Unless otherwise provided, Vendor shall ship all Goods to the location indicated in the PO prepaid. Failure to ship as required by the PO and any resultant claims by carriers against Contractor for shipping costs shall be set off against the Contract Sum.

Section 2.04 If the PO includes Services by Vendor or Vendor is otherwise entering the Project site, Vendor shall take necessary precautions to protect properly the work of others from damage caused by operations under the PO. Vendor shall cooperate with Contractor, other parties, and Owner, whose work might interfere with Vendor's Work. Vendor shall participate in the preparation of coordinated drawings in areas of congestion, specifically noting and advising Contractor of potential conflicts between the Services of Vendor and that of Contractor, other parties, and Owner. Vendor shall secure and pay for permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of Vendor's Services. Vendor shall take reasonable safety precautions with respect to installation and shall comply with safety measures initiated by Contractor, including Contractor's Safety and Health Program located at http://sms.jedunn.com/safety_program (which is incorporated into this PO by reference), and with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities for the safety of persons and property. Vendor shall comply with any other safety requirements reasonably established by Contractor. Vendor shall comply with any other safety requirements established in the Prime Contract. Vendor must send MSDS to Contractor, ATTN: Safety Dept. and provide with Goods at time of delivery. OSHA Hazard Communication Standard (29 CFR § 1910.1200).

Section 2.05 To the fullest extent permitted by law, Vendor shall protect, hold harmless, defend, and indemnify Contractor, Owner, and any other party for which Contractor is responsible for indemnifying under the Prime Contract, and each of their officers, employees, and agents, from all liabilities, cost, losses, damages, expenses, causes of action, claims, or judgments (including attorneys' and consultants' fees) arising out of the performance of the PO or the supplying of Goods and/or performing the Services identified herein, to the extent relating to or arising from: (a) bodily injury, sickness, disease, or death sustained by any person or damage to property of any kind; (b) any alleged or actual infringement or violation of any intellectual property rights; or (c) violations of law, code, ordinance, or other legal requirements; but only to the extent caused by the acts, omissions, negligence, or other fault of Vendor or its officers, employees, agents, servants, subcontractors and

Materials and Equipment Purchase Order



consultants, or any party for which Vendor is legally liable. The foregoing indemnity provisions shall not be construed to negate, abridge, or otherwise reduce any other rights of the parties at law or in equity.

Article III. CHANGES

Section 3.01 Contractor and Vendor may make changes to the Work by mutually executing a Change Order, which shall constitute final settlement of all matters relating to the change in the Work as described in the Change Order. Without such Change Order, a request for payment for any change in the Work will not be honored.

Section 3.02 If Vendor intends to make a claim for an adjustment to the Contract Sum for any reason, including in connection with a written order from Contractor for a change, addition, or omission in the Work, Vendor shall give Contractor written notice of such claim within seven (7) 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, Vendor shall give Contractor written notice of such claim within seven (7) days of the date Vendor receives the order. 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 before the date Contractor is required by the Prime Contract to submit such claim to Owner (but no later than seven (7) days after the occurrence of the event causing the claim). Vendor shall provide Contractor with all documentation and information necessary to prove and substantiate Vendor's claim no later than the earlier of: (a) at least two (2) business days before 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 that will affect or become part of a claim that Contractor must make under the Prime Contract, Vendor's failure to make a timely claim shall bind Vendor to the same consequences as those to which Contractor is bound.

Article IV. PAYMENT

Section 4.01 Contractor shall pay Vendor for the performance of the PO, subject to additions and deductions by mutually agreed upon and executed change orders, the price ("Contract Sum") set forth in Exhibit B, which includes all applicable taxes (other than those subject to exemption pursuant to Exhibit D). Vendor shall submit an application for payment to Contractor after achieving the applicable milestone identified in the PO and at least five (5) business days before the date the Prime Contract requires that Contractor submit Contractor's application for payment to Owner. A timely submitted application for payment shall be included in the next application for payment which Contractor is entitled to submit to Owner. Contractor shall pay Vendor within five (5) business days after Contractor receives payment from Owner under the Prime Contract, unless a different payment timeline or cadence is indicated in Exhibit B.

Section 4.02 Before issuance of any payment, Vendor shall submit evidence satisfactory to Contractor that all payrolls, bills for materials and equipment, and all known indebtedness connected with the Work have been satisfied or will be satisfied with the payment submitted by Contractor. Vendor shall provide Contractor lien waivers for payments made upon Contractor's request.

Section 4.03 If at any time there shall be evidence of any invoice, bill, lien, or claim (hereafter "claim") arising out of Vendor's performance or non-performance of the PO, and if such claim is not satisfied by Vendor, Contractor might become liable, Contractor shall have the right to retain out of any payment then due or thereafter to become due an amount sufficient to indemnify against such claim completely. Vendor shall, contingent on Contractor being in compliance with the payment obligations in the PO, defend and fully indemnify Contractor against all liability for any payment claims and liens for labor, taxes, materials, appliances, equipment, and supplies provided to the Project by Vendor, including attorneys' and consultants' fees.

Article V. INSURANCE

Section 5.01 Vendor shall maintain insurance required by the Contract Documents for vendors/suppliers, and if not specifically called out in the Contract Documents, Vendor shall maintain those coverages that are commercially reasonable for the operations undertaken by Vendor.

Section 5.02 If Vendor is providing Goods or performing Services involving any design or other professional services, Vendor shall carry professional liability coverage with limits not less than the greater of the limit required by the Contract Documents or \$1,000,000 per claim.

Section 5.03 If the Work includes Services by Vendor on the Project site, Vendor shall submit evidence of insurance meeting the greater of (1) the requirements of the Contract Documents and (2) the following minimum requirements: (a) Workers' Compensation in accordance with the provisions of the applicable jurisdiction and Employers Liability with a minimum of \$500,000 per occurrence; (b) Commercial General Liability with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for bodily injury and property damage, including contractual liability, and products and completed operations coverage of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate, such coverage remaining in force for the longer of eight years and the duration of the applicable statute of repose; (c) Automobile Liability, including owned, non-owned, and hired vehicles, with a combined single limit for each accident of not less than \$1,000,000; and (d) Excess or Umbrella Liability with a limit of not less than \$2,000,000 per occurrence and \$2,000,000 annual aggregate.

Section 5.04 Vendor shall name Contractor and any other party required by the Prime Contract as additional insureds on all liability policies (other than professional liability) and the policies shall be endorsed with a waiver of subrogation in favor of the additional insureds.

Article VI. DEFAULT, TERMINATION & DISPUTES

Section 6.01 Contractor may terminate the PO for its convenience upon notice to Vendor, in which case Vendor shall be entitled to recover only those costs relating to Work performed before termination and reasonable costs incurred due to the termination. If such termination stems from a

Materials and Equipment Purchase Order



termination of Vendor's scope under the Prime Contract, Vendor shall only be entitled to recover those costs which Contractor is entitled to and recovers from Owner under the Prime Contract. Further, should Vendor at any time refuse or neglect to supply a sufficiency of Goods and/or perform Services of the proper quality, or fail in any respect to prosecute the performance of the PO with promptness and diligence or fail in the performance of any of the covenants contained herein, Contractor shall, in Its discretion, be at liberty after three (3) days' notice to Vendor to either: (a) provide any such Goods and/or perform any such Services and to deduct the cost thereof from any money then due or thereafter to become due to Vendor under the PO, or otherwise seek the recovery of all such costs from Vendor; or (b) Contractor may terminate the PO for cause, and seek all available remedies in the PO, at law, and in equity.

Section 6.02 Vendor and Contractor waive claims against each other for their own consequential damages arising out of or relating to the PO, including without limitation, any consequential damages due to either party's termination. This waiver does not bar Contractor's recovery of any damages assessed against it through the Prime Contract or otherwise arising from Vendor's indemnity obligations under the PO for third-party claims.

Section 6.03 The PO is made and shall be interpreted and enforced in accordance with the laws of the place of the Project. Any dispute arising under or relating to the PO that is not disposed of by agreement shall be decided as follows: (a) if involving a matter relating to Owner, in the same manner provided by the Prime Contract for such a dispute. Vendor consents to its joinder in such a matter and agrees that any decision or judgment arising therefrom shall be binding upon Vendor; and (b) if not involving Owner, by arbitration occurring in the state where the Project is located administered by the American Arbitration Association in accordance with the then-current Construction Industry Arbitration Rules of the American Arbitration Association. As a condition precedent to arbitration, the parties shall first endeavor to resolve the dispute through mediation with a mutually agreed upon mediator.

Article VII. MISCELLANEOUS PROVISIONS

Section 7.01 Vendor represents that it is an independent contractor and warrants that in carrying out the Work, it will act as and be an independent contractor and not as an agent of Contractor.

Section 7.02 Vendor shall use Contractor's electronic delivery and signature process facilitated by a third-party administrator. Such digital/electronic signatures shall have the same legal effect as a written signature. Vendor shall be solely responsible for ensuring that an authorized representative of Vendor signs the PO and other documents utilizing Contractor's electronic signature process. Vendor shall not contest the validity or enforceability of any signature provided through Contractor's electronic signature process. Vendor also agrees to the electronic delivery of the fully executed PO and other documents in a .pdf format via email. Either party may copy the completed PO and other documents for electronic storage in a non-editable format. Following the electronic storage of these documents, any hard copy printout of the electronically stored information will constitute an original document.

Section 7.03 The PO constitutes the entire agreement between the parties with respect to the subject matter contained in the PO and supersedes all prior agreements, understandings and negotiations between the parties. The PO contains every obligation and understanding between the parties relating to the subject matter of the PO, 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. Any and all competing terms unilaterally issued by Vendor shall be deemed void ab initio. The PO may not be amended or modified, except by a written agreement signed by all parties.

Section 7.04 Each provision of the PO 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 the PO is determined to be invalid or unenforceable, such provision shall be severed from the PO and the remaining provisions shall remain intact and shall constitute the PO between the parties without regard to the invalidated provision.

Section 7.05 Each party recognizes that the PO is a legally binding contract and acknowledges that it has had the opportunity to consult with legal counsel of its choice. In any construction of the terms of the PO, the terms shall not be construed against either party on the basis of that party being the drafter of such terms.

Section 7.06 Vendor shall not assign the PO without the written consent of Contractor. The PO may be assigned to a subcontractor by Contractor or to Owner as provided in the Prime Contract.

Section 7.07 Vendor shall comply with the provisions of Executive Order 11246, as amended by order 11357, and Title VII of the 1964 Civil Rights Act. 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 Vendor 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.

Exhibit A: Documents Incorporated by Reference (Front End)
Williams County LEC Infirmary
206 East Broadway
Williston, ND 58801
J.E. Dunn Construction Project No. 25038500



Subcontractor/Vendor acknowledges that a .pdf copy of the Prime Contract and other documents listed below are available for review and copying through the Project website established for this Project at the following link: _____

1. Prime Contract dated _____, including any General and Supplementary Conditions, and all exhibits and amendments thereto.
2. Contractor's Front End Documents dated _____, and all supplements and amendments thereto.
3. Project Manual, prepared by _____ dated _____.
4. Drawings and Specifications prepared by _____. A list of the Drawings is as follows:
 - A. Bid Package No. __: _____
 - B. Bid Package No. __: _____
 - C. etc
5. Addenda as follows: _____

Exhibit B: Contract Sum & Scope of Work (Front End)
Williams County LEC Infirmary
206 East Broadway
Williston, ND 58801
J.E. Dunn Construction Project No. 25038500



VENDOR NAME
VENDOR ADDRESS

CONTRACT SUM

The Contract Sum for this PO shall be: _____ (\$_____).

Unit prices for this PO, if any, are:

1. Unit Price Description: \$_____/Unit

Allowances included in this PO, if any, are:

1. Allowance Description: \$_____

The Alternates included in the Contract Sum for this PO, if any, are:

1. Alternate #__ - Alternate Description: \$_____ ADD / DEDUCT

Other Alternates NOT included in the Contract Sum for this PO, if any, are:

1. Alternate #__ - Alternate Description: \$_____ ADD / DEDUCT

SCHEDULE:

Submittals to be submitted no later than _____, 20_____.

Delivery no later than ___ (#) weeks after approved submittals OR by _____, 20__.

PAYMENT:

Net _____ (#) days or in accordance with the Prime Contract requirements.

Scope of Work to follow

Exhibit C: Supplemental Conditions
Williams County LEC Infirmary
206 East Broadway
Williston, ND 58801
J.E. Dunn Construction Project No. 25038500



The PO is modified as follows:

1. Section 7.08 is added to the PO:

Section 7.08 To the extent representatives of the Supplier are present at the Project Site, because the site of the Project is the Williams County Correctional Center, which operates as the Owner's jail, no individual who is a named defendant in any active criminal case may work on the Project site at any stage of the Work. To comply with this provision, the Vendor, prior to beginning any of the Work on the Project site, shall provide the Contractor with a written list of all individuals who will perform any Work on the Project site during any part of the Project to allow the Owner to ascertain if any individual is a named defendant in any active criminal case and his prohibited from working on the Project site.

Exhibit E: Subcontractor Insurance Requirements
Williams County LEC Infirmary
206 East Broadway
Williston, ND 58801
J.E. Dunn Construction Project No. 25038500



CONTROLLED INSURANCE PROGRAM – ONSITE GENERAL LIABILITY ONLY

1. Contractor has elected to provide onsite General Liability insurance through a Controlled Insurance Program (“CIP”) for Contractor and enrolled subcontractors. The Subcontract Sum includes the cost of providing and maintaining the specific insurance coverage required by the Controlled Insurance Program Requirements and Forms manual (“CIP Manual” or “DCIP Manual”), as set forth in the Front End Documents. Note, in the DCIP Manual, Subcontractor is referred to as a "Trade Partner," which is defined as: "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." The Subcontract Sum specifically excludes costs of onsite General Liability coverage for enrolled Subcontractors.
2. Subcontractor shall comply, and shall require its lower tier subcontractors to comply, with all requirements in the CIP Manual for enrolled or non-enrolled subcontractors, as applicable. The following parties are required to be named as additional insureds on liability policies required to be provided by Subcontractor and its lower-tier subcontractors:
 - A. Owner – WILLIAMS COUNTY ND
 - B. Contractor – J.E. Dunn Construction Company
 - C. Architect - ENGINEERS-ARCHITECTS PC DBA EAPC and Architect's consultants
 - D. Other parties required by the Prime Contract
3. Subcontractor shall ensure that its lower tier subcontractors include the cost of providing and maintaining the specific insurance coverage required by the CIP Manual, but exclude costs of onsite General Liability coverage for enrolled Subcontractors.

MISCELLANEOUS PROVISIONS

1. Subcontractor shall provide insurance for its tools and equipment at its own cost and waives all rights against Owner, Contractor, Architect and other subcontractors of any tier for damages or losses to such tools and equipment, however caused. Subcontractor’s insurance policies shall provide for such waiver by endorsement or otherwise.
2. Contractor and Subcontractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Owner, the Architect, the Architect’s consultants, separate contractors, 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 provided under the Prime Contract or other property insurance applicable to the Work, to the extent such subrogation rights are waived under the terms of the Prime Contract, or covered by property insurance provided by Contractor applicable to the Work, except such rights as they may have to proceeds of such insurance. The Subcontractor shall require of the Subcontractor’s Sub-subcontractors, agents and employees, by appropriate agreements, written where legally required for validity, similar waivers in favor of the parties enumerated in this Subcontract. In the event of an insured loss arising out of Subcontractor’s Work, Subcontractor shall be responsible for payment of the deductible to the extent Subcontractor caused or could have prevented the loss. Coverage information, including the deductible for damages arising out of Named Windstorms, is available from Contractor upon request. The deductibles for losses covered by Builder’s Risk insurance provided for the Project, include, but are not limited to, the following:
 - A. General All Risk covered perils: \$25,000
 - B. Water related damages (other than Flood): \$150,000

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.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

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.

Witness: _____ (Seal)
(Legal Name of Principal)

By _____
(Name & Title of Authorized Signor)

Or Secretary's Attest (Form Must Be Witnessed)

(Signature)

Witness: _____

(Legal Name of Surety) (Seal)

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

(Date of Subcontract)

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.

(Legal Name of Principal) (Seal)

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

Or Secretary's Attest (Form must be Witnessed) (Signature)

Witness: By _____
(Legal Name of Surety) (Seal)

Or Secretary's Attest (Form must be Witnessed) (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.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

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'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:	25038500 Williams County LEC Infirmery
Project Address:	206 East Broadway Williston, ND 58801
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: _____

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



Subcontractor/Supplier: _____

Project Number and Name: 25038500 Williams County LEC Infirmery

Project Address: 206 East Broadway
Williston, ND 58801

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: **WILLIAMS COUNTY ND**
PO BOX 2047
WILLISTON, ND 58802-2047

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 Williams County LEC Infirmary located at 206 East Broadway Williston, ND 58801. 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: 25038500 Williams County LEC Infirmery

Project Address: 206 East Broadway
Williston, ND 58801

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: 25038500 Williams County LEC Infirmery

Project Address: 206 East Broadway
Williston, ND 58801

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.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION



AIA® Document A133® – 2019

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 2nd day of December, in the year Two Thousand Twenty-Five
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name and address)

Williams County
206 E. Broadway, P.O. Box 2047
Williston, ND 58802-2047

and the Construction Manager:
(Name and address)

J.E. Dunn Construction Company
125 Main Street #240
Williston, ND 58801

for the following Project:
(Name and location)

Williams County Correctional Center Infirmery Renovations
223 E. Broadway (LEC Building)
Williston, ND 58801

The Architect:
(Name and address)

Engineers-Architects, P.C. ("EAPC Architects Engineers")
313 Main Street
Williston, ND 58801

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. 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™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(1312044882)

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2	GENERAL PROVISIONS
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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

The Project will consist of approximately 8,000 square feet of renovation of existing space in the Williams County Correctional Center ("WCCC") consisting of the following renovations, reconfigurations, removal, and replacement:

1. Renovating the current Dormitory Area (including the Day Room/Commons Area, the Inmate Bunk Area, and the Inmate Shower Area) and constructing six Secure Inmate Isolation Sick Bay Cells, an Inmate Day Room/Common Area, a Nurse's Office with a Storage Room/Area, a second Nurse's Office, an Inmate Medical Examination Room, a Secure Hallway, and a Security Wall between the Inmate Day Room/Common Area and the two Nurse's Offices and Inmate Medical Examination Room;
2. Renovating the current Storage Room for the construction and housing of a Chase for Infrastructure to serve the six Secure Inmate Isolation Sick Bay Cells, to include an Access Door to the Storage Room Not Accessible to any Inmate areas;
3. Renovating the current Laundry Room, which has two washers and two dryers, and reconfiguring the Laundry Room to house three washers, three dryers, and a Chase to Serve the three washers; and

Init.

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User Notes:

(1312044882)

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4. Removing existing floor tiling and replacing it with new flooring using material agreed to by Williams County throughout the WCCC in the areas depicted in Exhibit C.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The Project location is in the existing WCCC, located in the Law Enforcement Center at 223 E. Broadway, Williston.



§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:

No later than Spring 2026

- .2 Construction commencement date:

Construction phase to begin in Spring/Summer 2026 with a commencement date to be established in the Guaranteed Maximum Price Amendment executed by the parties.

- .3 Substantial Completion date or dates:

Substantial completion no later than Fall/Winter 2026, with the date or month for substantial completion in 2026 to be established in the Guaranteed Maximum Price Amendment executed by the parties.

- .4 Other milestone dates:

N/A

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

N/A

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate a mutually acceptable Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective.

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

N/A

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

Init.

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User Notes:

(1312044882)

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(List name, address, and other contact information.)

Main Representative:

Keith Kleven, Facilities Services Director (Buildings/Grounds/IT)
206 E. Broadway, P.O. Box 2047
Williston, ND 58802-2047
Email Address: KeithK@co.williams.nd.us
Office – Direct Line: 701-577-4587
Cell Phone Number: 701-609-4966

Alternate Representative (only if Main Representative Not Available):

Jeremy Mohl, Assistant Jail Administrator
Williams County Sheriff's Office
223 E Broadway
Williston, ND 58801
Email Address: jeremymo@co.williams.nd.us
Office –Direct Line: 701.577.4584
Cell Phone Number: 701.770.1974

§ 1.1.9 The persons or entities, in addition to the Owner's Designated Representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

Verlan Kvande
Williams County Sheriff
223 E Broadway
Williston, ND 58801
Email Address: verlank@co.williams.nd.us
Office – Main Line: 701-577-7700

The Architect:

Burton Young
EAPC Architects Engineers
313 Main Street
Williston, ND 58801
Email Address: burton.youngs@eapc.net
Office –Direct Line: 701.572.6759
Cell Phone Number: 218.329.7848

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

N/A

.2 Civil Engineer:

N/A

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

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§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Burton Young
EAPC Architects Engineers
313 Main Street
Williston, ND 58801
Email Address: burton.youngs@eapc.net
Office –Direct Line: 701.572.6759
Cell Phone Number: 218.329.7848

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Ryan Anderson
Project Executive
J.E. Dunn Construction Company
125 Main Street #240
Williston, ND 58801
Mobile: (701) 300-1453
ryan.anderson@jedunn.com

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

During the pre-construction phase, team of staff may include the project director, estimator, superintendent, and/or project manager. The construction phase may include a full-time superintendent, a 50% project manager, and a 50% project engineer. The Construction Manager's staffing plan for the pre-construction phase shall be submitted to the Owner for review and approval prior to commencement by the Construction Manager of any preconstruction phase services. The Construction Manager's staffing plan for the construction phase shall be submitted to the Owner for review and approval prior to commencement by the Construction Manager of any construction phase services

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

The Construction Manager will conduct a public advertisement and competitive bid selection process in accordance with N.D.C.C. Chapter 48-01.2 to procure services that are required to be provided by the Construction Manager's subcontractors. The Construction Manager will evaluate bids and determine which subcontractor(s) is/are the lowest responsible bidder. The Construction Manager shall provide the Owner a list of the subcontractors prior to the Construction Manager making any selection. The Owner reserves the right to influence the Construction Manager's determinations to the extent of the Owner's past experience with a subcontractor or current legal dispute with a subcontractor.

§ 1.1.15 Other Initial Information on which this Agreement is based:

N/A

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may change and, in that event, the Owner and the Construction Manager may, upon mutual agreement of the parties, adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the

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Owner's anticipated design and construction milestones, as necessary, to accommodate changes in the Initial Information.

§ 1.3 The Construction Manager's representative shall not be changed without ten days' prior written notice to the Owner and with the Owner's consent.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement (AIA Document A133-2019), as amended, the General Conditions of the Contract for Construction (AIA Document A201-2017), as amended, and other documents listed in this Agreement, including but not limited to documents identified in Section 15.2, Modifications, as applicable, and amendments to the Contract Documents issued and executed by the parties 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 and the execution of the Guaranteed Maximum Price Amendment by Construction Manager and Owner ("executed GMP Amendment"), the Contract Documents will also include the documents identified in Section 3.2.3, in the executed GMP Amendment, and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. 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 contrary to or inconsistent with this Agreement, this Agreement shall govern. If anything in this Agreement or the other Contract Documents is contrary to or inconsistent with applicable state law, then state law shall control.

§ 2.2 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 the Owner 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 Construction Manager shall be responsible for not only the Construction Manager's actions, decisions, and services, but also those of the Construction Manager's employees, staff, and agents, and all Subcontractors hired by the Construction Manager performing any work or service under the Contract Documents. Any reference to the fault or negligence of the Construction Manager shall include any fault or negligence of the Construction Manager's employees, staff, agents, and Subcontractors. 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.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, as modified and attached as Exhibit A, shall apply to the extent they involve the Construction Manager's Preconstruction Phase services. The term "Contractor" as used in A201-2017 and in this Agreement shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, all of the general conditions of the contract as set forth in A201-2017, as modified and attached as Exhibit A, which document is incorporated herein by reference, shall apply. The term "Contractor" as used in A201-2017 and this Agreement shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1, except that the Construction Manager shall comply with all of its responsibilities under the Contract Documents. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3, except that the Construction Manager shall comply with all of its responsibilities under the Contract Documents. The Owner and Construction 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. The Construction Manager shall provide the

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services required by this Agreement in the time period specified herein or, if no time period, in accordance with the Project Schedule as set forth in Section 3.1.4.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the executed GMP Amendment. 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 or the Owner may require.

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

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner on a monthly basis and at other times requested by the Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on the Project site's use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; 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, all of which shall be subject to the Owner's final review and approval. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase. Owner and Construction Manager agree that Construction Manager is not an architect or engineer and that Construction Manager is not providing design services as part of the Agreement which are being provided by the Architect, unless otherwise specifically provided in the Contract Documents. The Construction Manager, however, will provide advice to the Owner and the Architect during the planning and design phases of the Project and will provide Project management services for the design, contracting, and construction aspects of the Project. Any advice provided by Construction Manager as stated in this Section 3.1.3.2 for the consideration by Owner and Architect shall be subject to final review and approval by the Owner and the Architect, and if approved incorporated in the Contract Documents.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project as provided in Section 1.7 and 1.8 of the AIA A201-2017, as modified, to establish the protocols for the development, use, transmission, and exchange of digital data, subject to final review and approval by the Owner.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and update, as changes occur, but no less frequently than once a month, and at other times requested by the Owner, a Project schedule for the Architect's review and the Owner's review and approval. The Construction Manager shall obtain the Architect's and the Owner'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, if any, 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 in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations to the Owner with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction, which shall be

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subject to final review and approval by the Owner. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

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

§ 3.1.6.2 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, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work and execute an appropriate Guaranteed Maximum Price Amendment. The estimate shall be provided for the Architect's review and the Owner's review and approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action, except that any corrective action shall be reviewed and approved by the Owner prior to taking the corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager, the Architect, and the Owner shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's review and approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in in the Sustainable Projects Exhibit, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in Section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

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

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's review and acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price in the executed GMP Amendment, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price and execution of the Guaranteed Maximum Price

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Amendment by the Owner and the Construction Manager, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 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. In the event there is a change in any applicable mandatory law after execution of this Agreement, including, without limitation mandatory changes in applicable laws that affect taxes or tariffs, the Guaranteed Maximum Price set forth in the executed GMP Amendment, estimated Cost of the Work, Construction Manager's Fee, the construction schedule for the Work, and the Contract Time shall be equitably adjusted in accordance with Article 7 of the AIA A201-2017, as modified, for additional costs or delay, if any, resulting from the applicable mandatory laws enacted or changed after the date of this Agreement.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document.

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

N/A

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager after the Architect's Construction Documents Phase Services are completed, and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and for the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall include the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 Deleted

§ 3.2.3 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 3.2.2;
- .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, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; 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 proposal.

Allowances included with any Guaranteed Maximum Price proposal must itemize assumptions to allow monitoring and itemization of the billings. Unused balances in any allowance may be transferred to other allowances or the Construction Manager's contingencies with the prior written approval of the Owner.

§ 3.2.4 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 that are considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or 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.

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§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing on or before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective upon execution of the Guaranteed Maximum Price Amendment by both parties. Following execution of the Guaranteed Maximum Price Amendment by the Owner and the Construction Manager amending this Agreement, the Owner shall provide a copy of the executed GMP Amendment to the Architect. The executed GMP Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information, clarifications, and assumptions upon which it is based.

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

§ 3.2.8 The Owner shall authorize the Architect to provide revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the executed GMP Amendment. The Owner shall promptly furnish such 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 executed GMP Amendment and the revised Drawings and Specifications. Any inconsistencies shall be resolved by the Construction Manager and Architect, subject to Owner's review and approval.

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

§ 3.2.10 The Construction Manager shall provide and update the Owner, with the monthly draw, projections of cash flow for the Guaranteed Maximum Price as set out in the executed GMP Amendment.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 The date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence on the date stated in the executed GMP Amendment.

§ 3.3.1.3 The anticipated date for Substantial Completion of the Work shall be as stated in the executed GMP Amendment, subject to adjustments in the time for completion as provided in the Contract Documents and the Project Schedule, and as reviewed and approved by the Owner.

§ 3.3.1.4 In accordance with N.D.C.C. § 48-01.2-23(2), Construction Manager, before starting any construction, shall provide the Owner with a bond in an amount at least equal to the amount of the Guaranteed Maximum Price stated in the executed GMP Amendment. The bond must be conditioned to be void if the Construction Manager and all subcontractors fully perform all terms, conditions, and provisions of this Agreement and pay all bills or claims on account of labor and materials, including supplies used for machinery and equipment, performed, furnished, and used in the performance of this Agreement, including all demands of subcontractors. The requirement that bills and claims be paid must include the requirement that interest of the amount authorized under N.D.C.C. § 13-01.1-02 be paid on bills and claims not paid within ninety days. The bond is security for all bills, claims, and demands until fully paid, with preference to labor and material suppliers as to payment. The bond must run to the Owner, but any person having a lawful claim against the Construction Manager may sue on the bond.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings with the Owner and the Architect on a monthly basis and at other times requested by the Owner to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment by the parties, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017. Both schedules, and any amendments thereto, shall be subject to the review and approval of the Owner.

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§ 3.3.2.3 Monthly Report

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.

§ 3.3.2.4 Daily Logs

The Construction Manager shall 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.

§ 3.3.2.5 Cost Control

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 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 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.

§ 4.1.2 The Owner shall, if requested in writing by the Construction Manager prior to commencement of the Construction Phase, furnish to the Construction Manager satisfactory evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment to the Construction Manager when due. If requested by the Construction Manager as provided herein, the Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Construction Manager's services in relation to the Work or the portion of the Construction Manager's services in relation to 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 Construction Manager and Architect.

§ 4.1.3 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 Article 7, (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, including any mutually agreed upon impact, if any, on the Construction Manager's compensation.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish, only if the Owner and the Construction Manager mutually determine necessary for the Project or any part thereof, the information or services set forth in Sections 4.1.4.1 through 4.1.4.4 with reasonable promptness. The Owner shall also furnish, only if the Owner and the Construction Manager mutually determine necessary for the Project or any part thereof, 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 specific 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.

§ 4.1.4.1 The Owner shall furnish, only if the Owner and the Construction Manager mutually determine necessary for the Project or any part thereof, 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.

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§ 4.1.4.2 The Owner shall furnish, only if the Owner and the Construction Manager mutually determine necessary for the Project or any part thereof, surveys describing physical characteristics, legal limitations and utility locations, and a written legal description. The surveys and legal information furnished by the Owner, if any, shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; on-site and adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the sites; locations, dimensions and other 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.

§ 4.1.4.3 The Owner, when such services are requested by the Construction Manager as being necessary, and the Owner agrees they are necessary, shall furnish to the extent necessary services of geotechnical engineers, which may include 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 subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 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 necessary, as mutually determined by the Owner and the Construction Manager, to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for specific information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in the Sustainable Projects Exhibit.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project, and shall be referred to as "the Owner's Designated Representative" under this Agreement. Wherever this Agreement, AIA Document A201-2007, General Conditions of the Contract for Construction, and the other Contract Documents require notice, consultation, documentation, reporting, review, decision-making, consent, or approval to or by the Owner, such notice, consultation, documentation, reporting, review, decision-making, consent, or approval shall be made by or to the Owner's Designated Representative, unless the Owner provides written notice of a change. In addition, any provision in this Agreement, AIA Document A201-2007, General Conditions of the Contract for Construction, or the other Contract Documents providing for notice, consultation, documentation, reporting, consent, approval, or decision by or to the Architect, such notice, consultation, documentation, reporting, review, decision-making, consent, or approval shall simultaneously be made to, with, and/or by the Owner's Designated Representative, as the case may be, unless the Owner's Designated Representative waives in writing the right to such notice, consultation, documentation, reporting, review, decision-making, consent, or approval. The Owner's Designated Representative shall render decisions with reasonable promptness and furnish information in a reasonably prompt manner, 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 A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's Designated Representative.

§ 4.2.1 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.

§ 4.3 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, except that any additional services by the Architect requested by the Construction Manager shall be subject to the Owner's and the Architect's review and approval. The Owner shall provide the Construction Manager with the executed agreement between the Owner and the Architect, and any further modifications to that agreement.

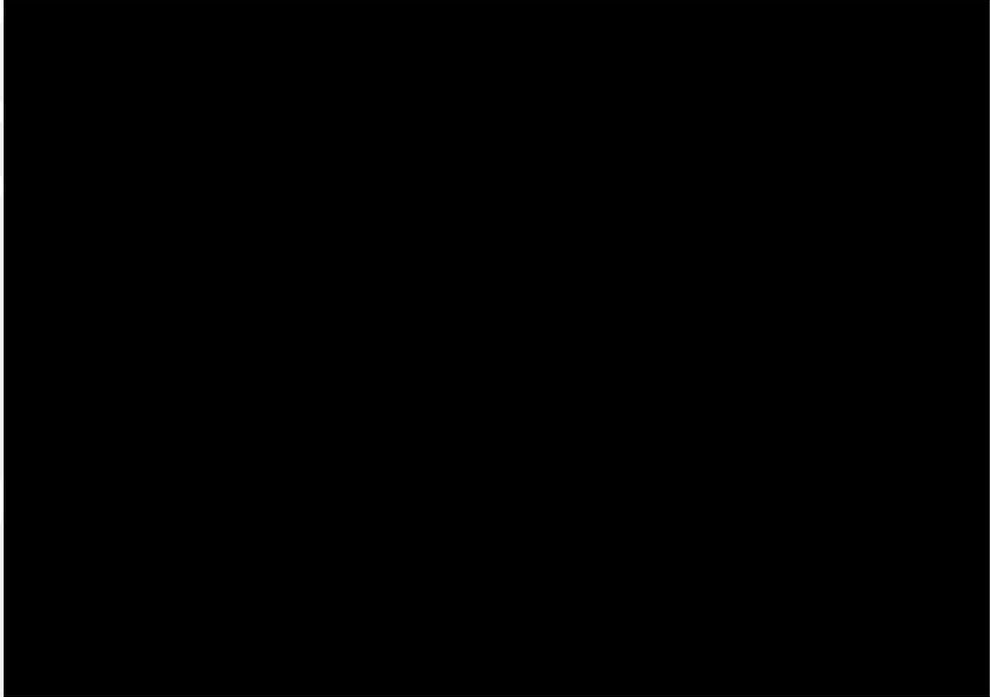
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ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES



ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES



§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work shall be as follows:

For Owner-initiated and approved Change Orders, caused through no fault or action of the Subcontractor or the Sub-Subcontractor, the Subcontractor shall be limited to ten percent (10%) mark-up for overhead and profit on changes to the Work. Subcontractors shall not be entitled to any mark-up for overhead and profit for Change Orders caused through the fault or action of the Subcontractors or Sub-subcontractors. The ten percent (10%) mark-up for Subcontractors stated in this Section applies to that portion of the changed Work not being performed directly by

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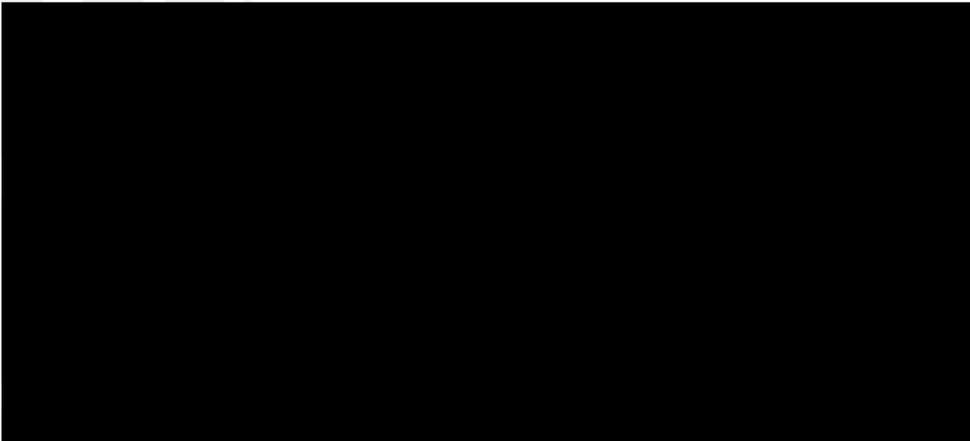
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Subcontractor and for that portion of the changed Work being performed directly by Subcontractor. For that portion of the changed Work not being performed directly by the Subcontractor, the ten percent (10%) mark-up allowance is the cumulative limit that may be charged by the Subcontractor regardless of the number of Sub-subcontractors required for the changed Work.



§ 6.1.6 Liquidated damages, if any:

N/A



§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing through a Modification. The Construction Manager shall, to the extent the schedule for the Work is impacted by such Modification, be entitled to an appropriate equitable adjustment, approved by the Owner, in the Contract Time as a result of changes in the Work approved by the Owner in the Modification.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction, subject to review and approval of the Owner.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price established in the executed GMP Amendment on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction. The Guaranteed Maximum Price established in the executed GMP Amendment may only be modified by a Change Order reviewed and approved in writing by the Owner, subject to the Construction Manager's rights regarding Claims under Article 15 of the General Conditions.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as it refers to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price established in the executed GMP Amendment, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as

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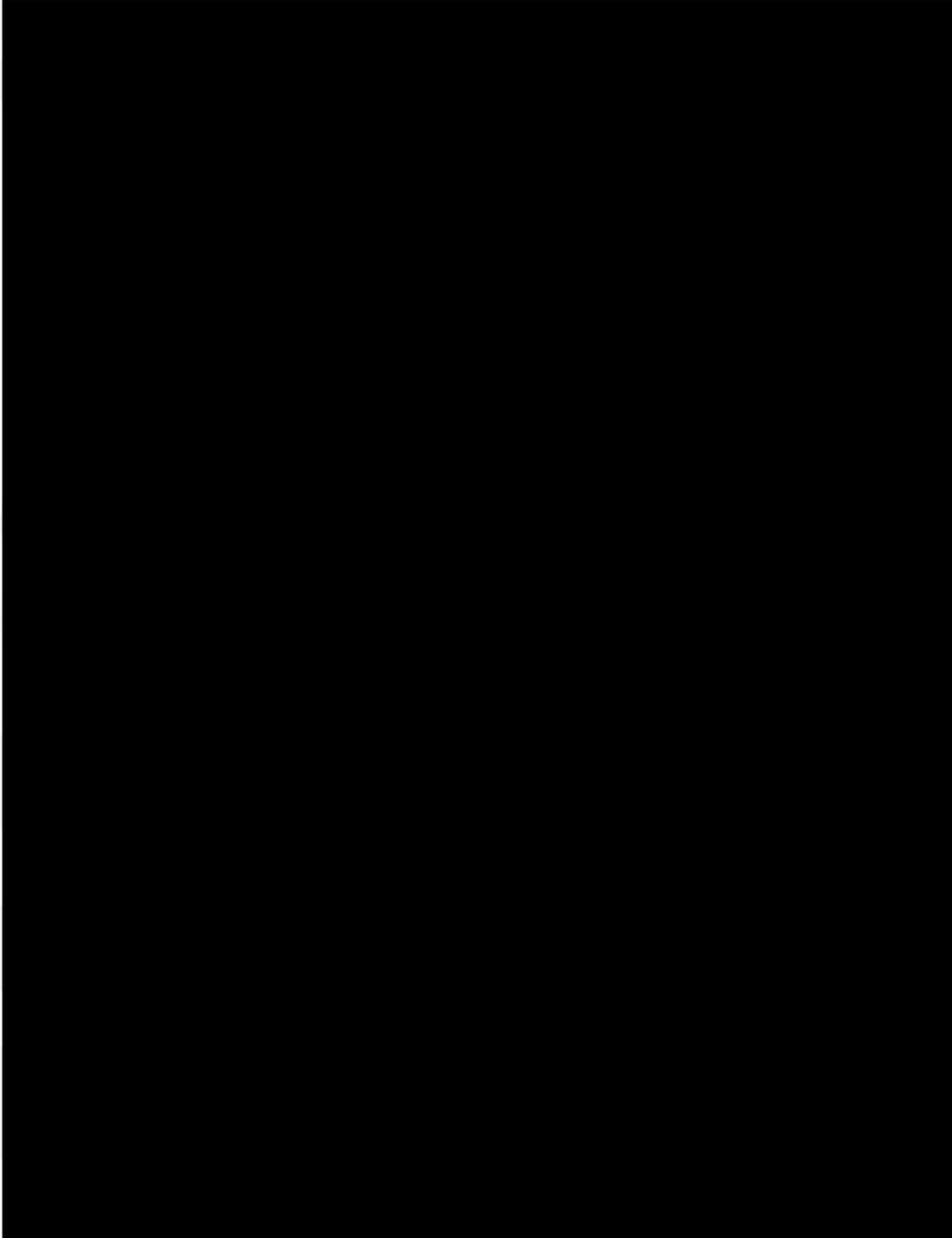
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defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 The Construction Manager's Fee shall not be adjusted for any reason, except as provided in Section 6.1.3.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE



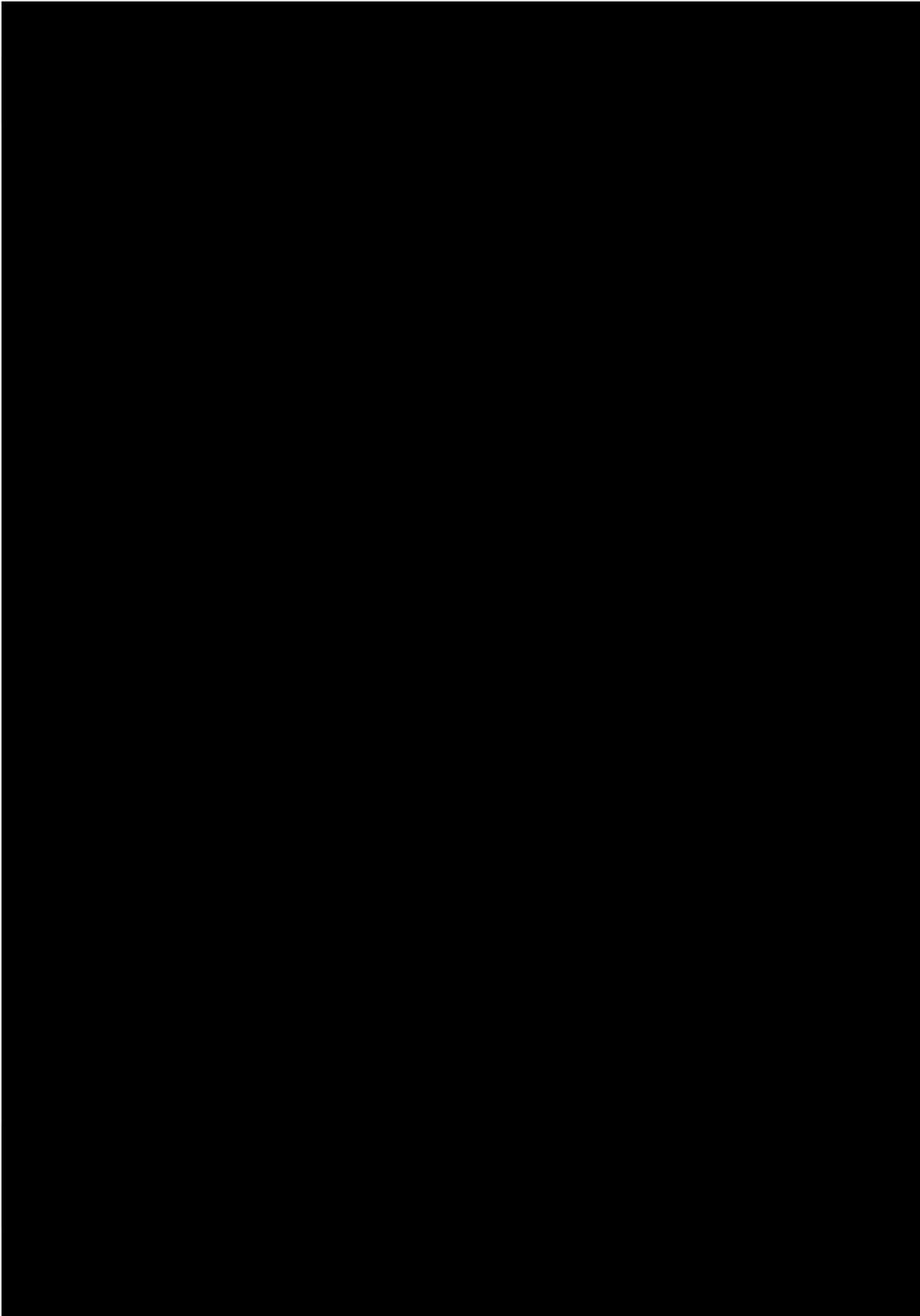
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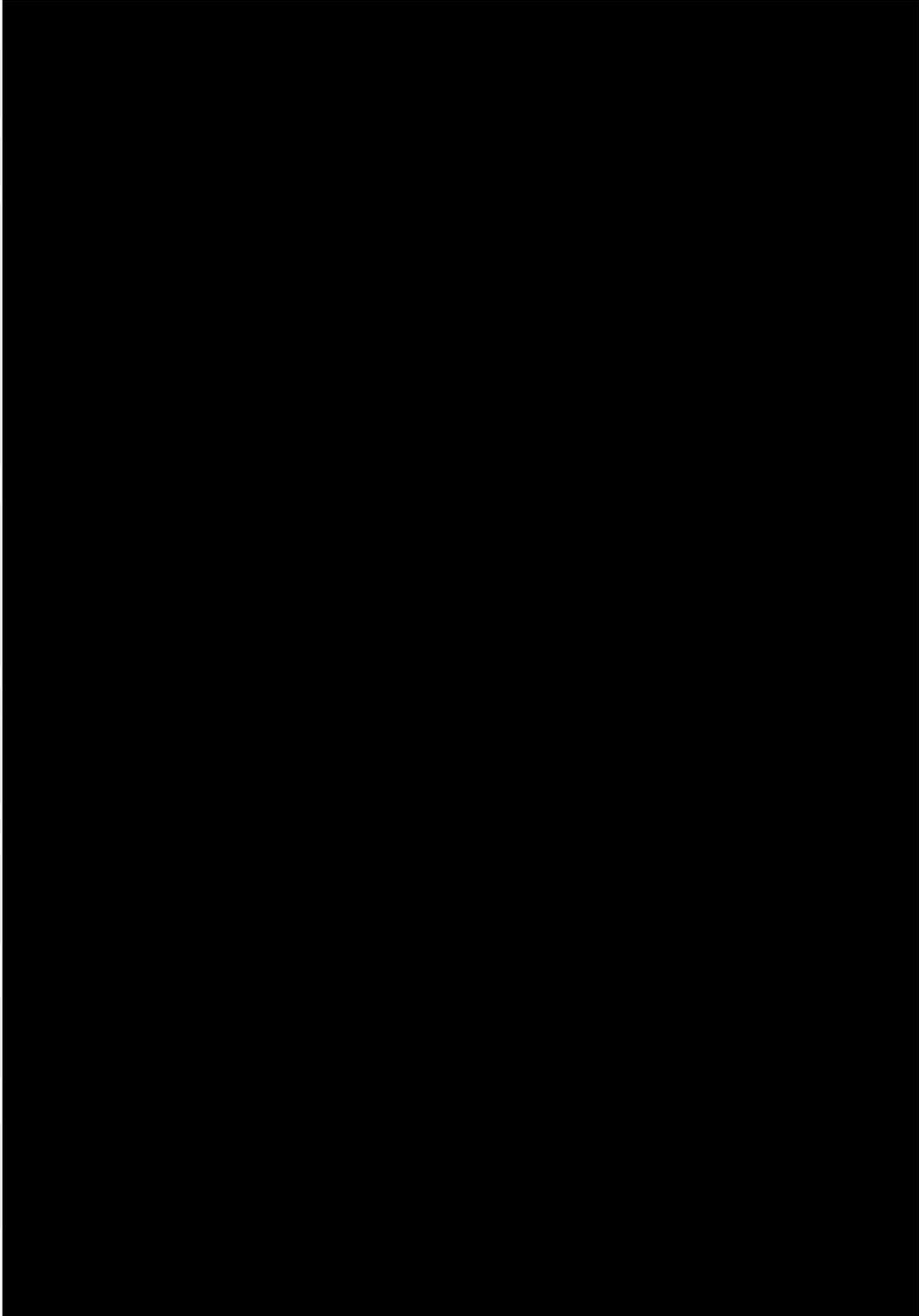
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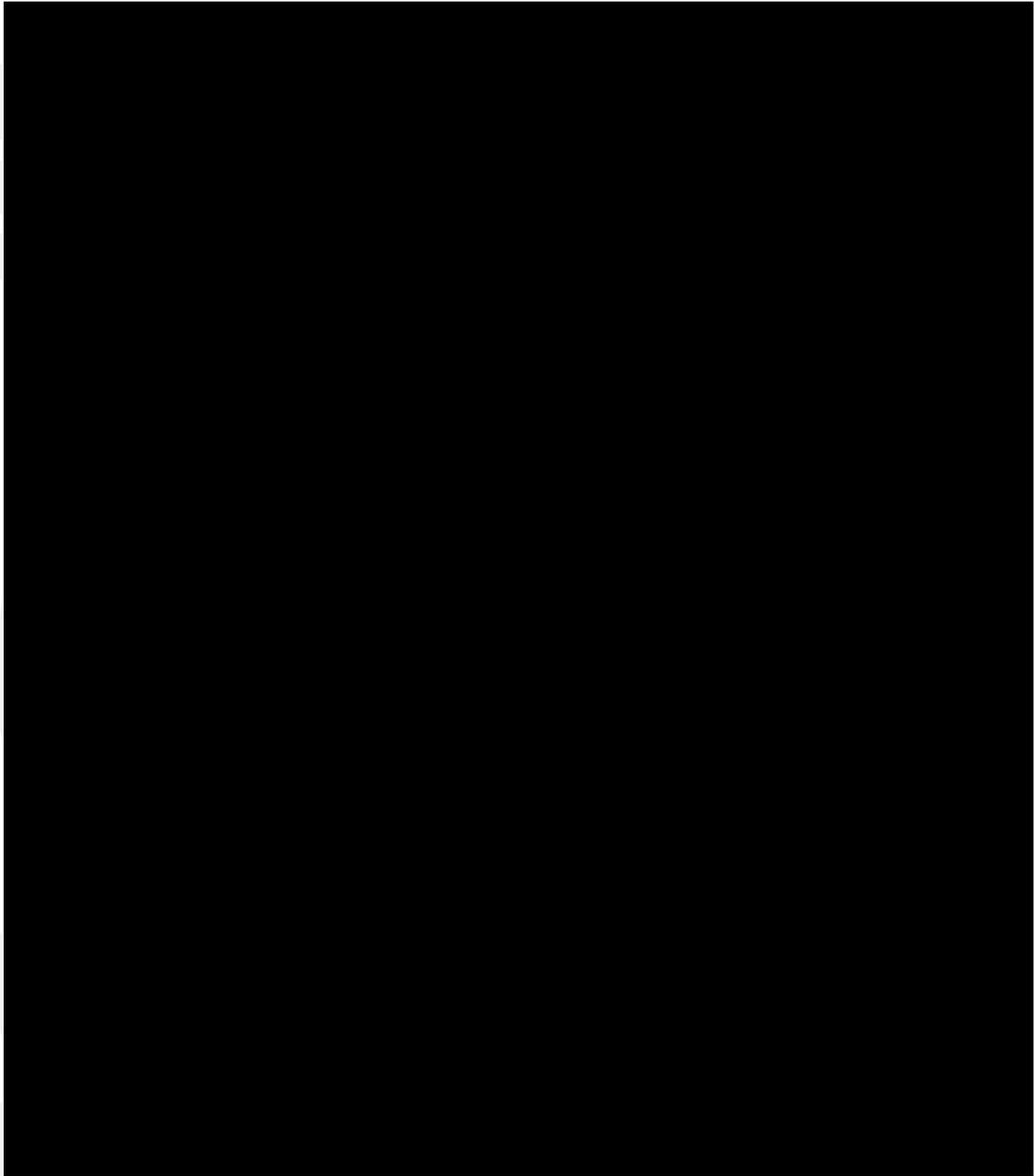
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ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 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 the amount to be paid, less such discount, 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 or discounts made or given to Construction Manager through Construction Manager’s credit agreements), and the Construction Manager shall make provisions so that they can be obtained. The Construction Manager shall itemize by line item any such discounts, rebates, and refunds on invoices.

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§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work, and shall be itemized by line item on invoices.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 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 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. The Construction Manager shall publicly advertise and publicly open bids from subcontractors for the work items the Construction Manager chooses not to perform. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents and Construction Manager's subcontracting standards. The Construction Manager shall evaluate the bid(s) to ensure completeness and determine which bid(s) is/are the lowest responsible bidder(s). The Construction Manager shall then evaluate the lowest responsible bidders based on the Construction Manager's subcontracting standards, which are limited to verifying that the bidder's financial, insurance, bonding, and safety information as proposed by the bidder are in accordance with the public advertisement, state law, the Contract Documents, and the Project. The Construction Manager shall then deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager, based on the Construction Manager's evaluation as stated in this Section 9.1, intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier as provided in Section 1.1.14. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has provided a timely reasonable objection to the Owner.

§ 9.1.1 When a specific subcontractor or supplier bidding on the Project, or any part thereof, (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 and N.D.C.C. Chapter 48-01.2 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 executed GMP Amendment by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 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 Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee pursuant to the Owner's prior written approval, 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 Article 10.

ARTICLE 10 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 of the Guaranteed Maximum Price established by the executed GMP Amendment under this Contract, subject to the Owner's overall authority to control and financially manage the Cost of the Work and the Project, 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, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, 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.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect and the Owner by the Construction Manager, and Certificates for Payment approved and issued by the Architect and approved by the Owner, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and

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elsewhere in the Contract Documents. Applications for payment shall be submitted on AIA Documents G702 and G703.

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

§ 11.1.3 Provided that an Application for Payment is received by the Architect and the Owner not later than the 15th day of a month, the Owner shall make payment of the amount certified by the Architect and approved by the Owner not later than thirty (30) days following the date of receipt of the Application for Payment by Architect and Owner. If an Application for Payment is received by the Architect and the Owner after the application date fixed above, payment of the amount certified by the Architect and approved by the Owner shall be made by the Owner not later than thirty (30) following the date of receipt of the Application for Payment by the Architect and the Owner.

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted itemized invoices or itemized invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments 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, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 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, provided the schedule of values has been reviewed and approved by the Owner. The Owner-approved schedule of values shall separately allocate the entire Guaranteed Maximum Price established in the executed GMP Amendment for the Project covered by the executed GMP Amendment among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price set forth in the executed GMP Amendment but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect and the Owner may require. The schedule of values reviewed and approved by the Owner shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the Owner-approved schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the Owner-approved schedule of values, the Construction Manager shall submit supporting documentation to the Architect and the Owner.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work of the Project covered by the Application for Payment 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 for Work of the Project covered by the Application for Payment.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

- .1 That portion of the Guaranteed Maximum Price established in the executed GMP Amendment 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 established in the executed GMP Amendment allocated to that portion of the Work in the most recent 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 That portion of the Guaranteed Maximum Price established in the executed GMP Amendment properly allocable to materials and equipment delivered and suitably stored at the site for subsequent

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incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing by the Owner;

- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, less retainage of Ten percent (10.00 %), computed upon an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect or the Owner has previously withheld or nullified a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect or the Owner may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation;
- .6 Amounts, if any, for which the Owner has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007; and
- .7 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

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

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

The Owner shall withhold a retainage of ten percent (10%) from the amount owed to the Construction Manager. Once the cumulative amount of this retainage reaches fifty percent (50%) of the Guaranteed Maximum Price established in the executed GMP Amendment, the Owner shall stop any further withholding of retainage.

§ 11.1.8.1.1 The following items are not subject to retainage:

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

N/A

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

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

N/A

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section

(Paragraphs deleted)

11.1.8, excepted as stated in this Section 11.1.8.3.

Upon submission and approval of the Construction Manager's Application for Payment upon Substantial Completion of the Work that includes retainage, the Owner shall pay all retainage to Construction Manager, less an amount equal to one hundred fifty percent (150%) of the value of the incomplete punch list work of each designated portion of the Project. Subject to Section 11.1.9, the balance of the amount withheld by the Owner shall be paid to the Construction Manager upon completion of the Work and the Construction Manager services under this Agreement.

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§ 11.1.9 If, after Substantial Completion of the Work, the final completion of the Work is materially delayed through no fault of the Construction Manager or by issuance of one or more Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect and subject to the Owner's approval, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted in accordance with Section 9.10.3 of AIA Document A201-2017.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site or at an off-site facility and subject to the requirements of Section 7.5.5.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements. The Construction Manager shall pay Subcontractors within ten (10) calendar days of the Construction Manager's receipt of payment from the Owner, unless a lesser time is required elsewhere in the Contract Documents or the Construction Manager's contract with the Subcontractor.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect and the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) 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. This Section does not alter the Architect's duties under Article 4 of A201-2007 or the Architect's agreement with the Owner.

§ 11.2 Final Payment

§ 11.2.1 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 Article 12 of AIA Document A201-2017, 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 to the Architect and the Owner; and
- .3 a final Certificate for Payment has been approved and issued by the Architect and approved by the Owner in accordance with Section 11.2.2.2.

§ 11.2.2 Within thirty (30) days of the Owner's and the Architect's receipt of the Construction Manager's final accounting for the Cost of the Work and a final Application of Payment to the Architect and the Owner, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work in accordance with Section 11.2.2, the Owner shall, within ten (10) days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either approve and issue a final Certificate for Payment, for the Owner's approval, with a copy to the Construction Manager, or notify the Construction Manager in writing of the Architect's or the Owner's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Owner, and not the Architect, is responsible for verifying the accuracy of the Construction Manager's final accounting.

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§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is 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 Article 15 of AIA Document A201-2017. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Owner's final Certificate for Payment, less the amount in dispute by the Owner.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the Architect has approved and issued the final Certificate for Payment, to be approved by the Owner, subject to Sections 11.2.2.2. and 11.2.2.3.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work which is not the fault of the Construction Manager, the Owner shall reimburse the Construction Manager for 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 established in the executed GMP Amendment. 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.

§ 11.3 Interest

Payments for Construction Phase Services are due and payable under the Contract as stated in Article 11. Amounts unpaid thirty (30) days after payment is due in accordance with Article 11 shall bear interest from the date *(Paragraphs deleted)* the Certificate of Payment is approved by the Architect and the Owner at the rate stated below.

The rate per annum of two percentage points below the Bank of North Dakota prime interest rate as set thirty days from the date of the invoice until the issuance of payment as set forth in N.D.C.C. Section 48-01.2-14.

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201-2017. 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, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017 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. *(Paragraphs deleted)*

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows: *(Paragraph deleted)*

[X] Litigation in a court of competent jurisdiction in Williams County, North Dakota. *(Paragraphs deleted)*

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price and execute a Guaranteed Maximum Price Amendment as stated in Section 3.2.1 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 stated in Section 14.1.1 of AIA Document A201-2017.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be equitably compensated, as mutually agreed to by the Owner and the Construction Manager, on a pro-rata basis for

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Preconstruction Phase services performed prior to receipt of the notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

(Paragraphs deleted)

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

Following execution of the Guaranteed Maximum Price Amendment by the parties and subject to the provisions of Section 13.2.2 and 13.2.3, the Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201-2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If, following execution of the Guaranteed Maximum Price Amendment by the parties, the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201-2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201-2017 shall not cause the Guaranteed Maximum Price set forth in the executed GMP Amendment to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1.2 ;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201-2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, as mutually agreed to by the parties, either by purchase or rental at the election of the Owner, for any equipment owned by, or subject to a purchase order, subcontract, or rental agreement by, the Construction Manager, with the Construction Manager has paid, that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements or other contractual agreements) for equipment for the Work, the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such purchase orders, subcontracts, rental agreements, and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such purchase orders, subcontracts, rental agreements, or purchase orders. All purchase orders, subcontracts, rental agreements, and other contracts entered into by the Construction Manager for equipment for the Work will contain provisions allowing for assignment to the Owner as described in this Section.

If the Owner accepts assignment of purchase orders, subcontracts, rental agreements, and other contracts entered into by the Construction Manager for equipment for the Work as described above, the Owner will reimburse the Construction Manager for all costs arising under such purchase orders, subcontracts, rental agreements, and other contractual agreements that have been incurred and paid by the Construction Manager, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any such purchase orders, subcontracts, rental agreements, and other contractual agreements that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate such purchase orders, subcontracts, rental agreements, and other contractual agreements and the Owner will pay the Construction Manager the costs necessarily incurred and paid by the Construction Manager because of such termination.

§ 13.2.3 Termination by the Owner for Convenience

If, following execution of the Guaranteed Maximum Price Amendment by the parties, the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Construction Manager

(Paragraphs deleted)

as set forth in Section 14.4.3 in AIA Document A201-2017.

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017; in such case, unless the suspension is the fault of the Construction Manager, the Guaranteed Maximum Price established in the

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executed GMP Amendment and the Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.1.1 Because the site of the Project is the Williams County Correctional Center, which operates as the Owner's jail, no individual who is a named defendant in any active criminal case may work on the Project site at any stage of the Work. To comply with this provision, the Contractor, prior to beginning any of the Work on the Project site, shall provide the Owner with a written list of all individuals who will perform any of the Work on the Project site during any part of the Project to allow the Owner to ascertain if any individual is a named defendant in any active criminal case and is prohibited from working on the Project site.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, 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 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to this Agreement shall assign its rights and obligations under this Agreement, or the whole or any part of this Agreement, without written consent of the other, except as specifically authorized by this Agreement. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, 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 Construction Manager shall execute all written consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase and Construction Phase

For all phases of the Project, the Construction Manager shall purchase and maintain the following insurance for the duration of the Project. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than three million dollars (\$3,000,000) for each occurrence and six million dollars (\$6,000,000) in the aggregate for bodily injury and property damage. Policy limits of not less than six million dollars (\$6,000,000) in the aggregate for personal and advertising injury and products completed operations.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$1,000,000) per accident and one million dollars (\$1,000,000) aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$1,000,000) each accident, one million dollars (\$1,000,000) each employee, and one million dollars (\$1,000,000) policy limit.

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(Table deleted)

(Paragraphs deleted)

§ 14.3.1.7 Additional Insured Obligations. The Construction Manager shall also purchase and maintain excess liability insurance with a policy annual aggregate limit of not less than five million dollars (\$5,000,000) for bodily injury and property damage for each occurrence and excess liability insurance with policy limits of not less than five million dollars (\$5,000,000) for completed operations aggregate limits. In accordance with Section 11.1.1.5 of A201-2017, the Construction Manager shall also purchase and maintain a builder's "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 on and off the Project site and portions of the Work in transit on a replacement cost basis. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

(Paragraphs deleted)

§ 14.3.2.1 The Construction Manager shall provide payment and performance bonds with a penal sum equal to the Guaranteed Maximum Price as established in the executed GMP Amendment as set forth in Section 6.2 .

(Paragraphs deleted)

§ 14.5 Other Provisions

§ 14.5.1 The performance of construction phase services is contingent upon obtaining all necessary zoning, building, and other permits for the Project. The Construction Manager shall make every effort to obtain all necessary permits prior to commencement of the Construction Phase as stated in Section 3.3.1.2.

§ 14.5.2 CONSTRUCTION MANAGER PAYMENT INSTRUCTIONS – DO NOT CHANGE.

Owner shall make all payments to Construction Manager by ACH. Construction Manager shall provide Owner with payment instructions in writing on Construction Manager's letterhead after the parties execute this Agreement. Owner acknowledges that Construction Manager does not change its bank routing or account numbers. Owner shall not accept or rely on emails or correspondence requesting changes to these payment instructions. The payment instructions provided by Construction Manager in accordance with this Section 14.5.2 may only be altered in a fully executed Change Order by the Construction Manager, or its authorized representative.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 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.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™–2019, 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

.2

(Paragraphs deleted)

Exhibit A - AIA Document A201™–2017, General Conditions of the Contract for

(Paragraphs deleted)

Construction, as modified

(Paragraphs deleted)

- .3 Other documents, if any, listed:

- a. Exhibit B – Construction Manager's Logistics Rental Rates
- b. Exhibit C – EAPC Architects Engineers Design Identifying Area for Floor Replacement (Remove Old and Replace with New Tiling)

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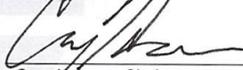
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This Agreement is entered into as of the day and year first written above.

WILLIAMS COUNTY



Cory Hanson, Chairman

Williams County Board of County Commissioners

J.E. DUNN CONSTRUCTION COMPANY



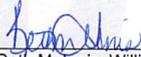
CONSTRUCTION MANAGER (Signature)

Marc Mellmer Vice President

(Printed name and title)

BJD

ATTEST:



Beth M. Innis, Williams County Auditor

Dated: December 2 2025

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AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Williams County Correctional Center Infirmary Renovations
223 E. Broadway
Williston, ND 58801

THE OWNER:

(Name and address)

Williams County
206 E. Broadway
, P.O. Box 2047
Williston, ND 58802-2047

THE ARCHITECT:

(Name and address)

Engineers-Architects, P.C. (“EAPC Architects Engineers”)
313 Main Street
Williston, ND 58801

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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.

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

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in Section 2.1 of AIA Document A133-2019, and include the Standard Form of Agreement between the Owner and Construction Manager as Constructor, AIA Document A133-2019, as modified, General Conditions of the Contract of Construction, AIA Document A201-2017, as modified, and other documents listed in AIA133-2019, including but not limited to Section 15.2 of AIA133-2019, Modifications, as applicable, and amendments to the Contract Documents issued and executed 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 or proposal requirements. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal(s) and the execution of the Guaranteed Maximum Price Amendment by Construction Manager and Owner ("executed GMP Amendment"), and any subsequent amendments thereto, the Contract Documents will also include the documents identified in Section 3.2.3 of AIA133-2019, in the executed Guaranteed Maximum Price Amendment, and any subsequent amendments thereto, and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8 of AIA133-2019. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

Where any provision of AIA Document A201-2017, the General Conditions is contrary to or less restrictive than the obligations and rights of the Construction Manager and the Owner set forth in AIA 133-2019, the provisions of AIA Document A133-2019 shall apply. In addition, nothing in this AIA Document A201-2017 shall increase, lessen, or change the obligations of the Architect or the Architect's consultants contained in the agreement between the Owner and the Architect. If anything in this Agreement or the other Contract Documents is contrary to or inconsistent with applicable state law, then state law shall control.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction (also referred to herein as "this Contract" or "the Contract"). 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.

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§ 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. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 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.

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

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

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

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other Owner-related projects or for construction, use, maintenance, alteration, and for additions to the Project without the specific written consent of the Owner. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on non-Owner related projects without the specific written consent of the Owner, the Architect and the Architect’s consultants.

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§ 1.6 Notice

Where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by certified mail, by courier, or by electronic transmission.

(Paragraph Deleted)

§ 1.7 Digital Data Use and Transmission

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, the parties may agree upon protocols governing the development, transmission, use, and exchange of Instruments of Service or any other information or documentation in digital form, unless otherwise already provided for in the Agreement or the Contract Documents. In such case, the parties will document in writing the protocols for the development, use, transmission, and exchange of Instruments of Service or any other information or documentation in digital form in a mutually agreeable format.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in writing as mutually agreed to by the parties shall be at the using or relying party’s sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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 Designated Representative. Wherever this Contract requires or refers to consultation, documentation, reporting, review, decision-making, consent, or approval to or by the Owner, such notice, consultation, documentation, reporting, review, decision-making, consent, or approval shall be made by or to the Owner’s Designated Representative, unless the Owner provides written notice of a change. In addition, any provision in this Contract, or the other Contract Documents providing for notice, consultation, documentation, reporting, consent, approval, or decision by or to the Architect, such notice, consultation, documentation, reporting, review, decision-making, consent, or approval shall simultaneously be made to, with, and/or by the Owner’s Designated Representative, as the case may be, unless the Owner’s Representative waives in writing the right to any such notice, consultation, documentation, reporting, consent, approval, or decision.

§ 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, or any part thereof, is located, usually referred to as the Project site, and the Owner’s interest therein.

§ 2.2 Evidence of the Owner’s Financial Arrangements

§ 2.2.1 Prior to commencement of the construction phase of the Work, the Contractor may request in writing that the Owner furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. If the Contractor makes a written request for such evidence prior to commencement of the construction phase of the Work, the Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1 due to the Owner’s failure to provide reasonable evidence of its financial arrangements upon the Contractor’s written request within the time allowed by this Section 2.2.1, the Contract Time shall be extended appropriately through a Change Order.

The phrase “reasonable evidence”, as used in Section 2.2, may include, without limitation, information confirming source of equity money for the Project including but not limited to Owner’s audited financial statements (or unaudited statements, if audited statements are not available) for the two years preceding the execution of this

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Contract, or other documentation mutually agreed by the parties as being sufficient reasonable evidence of the Owner's financial arrangements for the Project.

§ 2.2.2 Following commencement of the construction phase of the Work, the Contractor may only request, in writing or otherwise, that the Owner furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's written request, the Contractor may immediately stop the Work and, in that event, shall immediately notify the Owner that the Work has stopped. However, if the written request is made because a change in the Work materially changes the Contract Sum under (3) above and the portion of the Work affected by the change is separate and discrete from all other Work, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided by the Owner that it has made financial arrangements to fulfill the Owner's obligations related to the material change in the Contract Sum. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately through a Change Order and the Contract Sum shall be increased appropriately through a Change Order by the amount of the Contractor's reasonable costs of shutdown, delay and start up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes the reasonable evidence of financial arrangements, upon the Contractor's written request as allowed under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' advance written notice to the Owner, only where disclosure is required by law or by court order, and such disclosure shall be limited to the extent necessary to comply with law or the court order. The Contractor may also disclose "confidential" information to its employees, consultants, lenders, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree in writing to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

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

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

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

§ 2.3.4 The Owner shall furnish, as the Owner and the Contractor mutually determine is necessary for the Project, 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.

§ 2.3.5 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.

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

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§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 in a timely manner or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of 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 default or neglect. Such action by the Owner and amounts charged by Owner to the Contractor may both be taken without prior approval of the Architect and the Architect shall, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall promptly pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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 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, the Construction Manager at Risk, or the Contractor's designated representative.

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

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

§ 3.2 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 for the Project, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site for the Project 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 and the Owner 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 and the Owner any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect or the Owner may require.

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§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect or the Owner issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, 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. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof for the site of the Project and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures at the site of the Project. 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 propose an alternative means, methods, techniques, sequences, or procedures. The Architect and the Owner shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction and have the right to object to any proposed alternative means, methods, techniques, sequences, or procedures. Unless the Architect or the Owner objects to the Contractor's proposed alternative in a reasonable amount of time so as to not materially impact the Contractor's performance of the Work or the Project Schedule, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures as proposed to the Architect and the Owner, and the Contract Documents shall be deemed to incorporate the Contractor's proposed alternative. If the Architect or the Owner objects to the Contractor's proposed alternative, or the Contractor is instructed by the Owner or by the Architect, with the Owner's written consent, to proceed with the required means, methods, techniques, sequences or procedures without acceptance of the Contractor's proposed alternative, 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.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect and the Owner in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, subject to the Owner's approval, 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

§ 3.5.1 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

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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 or the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received, 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.

§ 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 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 for the Project that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide written notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the 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, the Architect shall report the results of its investigation to the Owner and the reasons for its determination that the conditions materially differ from the Contract Documents and may recommend to the Owner that an equitable adjustment be made in the Contract Sum or Contract Time, or both, which shall be subject to review and approval by the Owner. The Owner reserves the right to investigate any such conditions to verify if they materially differ and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work. If the Architect or the Owner determines that the conditions at any of the site for the Project 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, stating the reasons. If either party disputes the Architect's determination or recommendation, or if the Contractor disputes the Owner's determination, the affected party may submit a Claim 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 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.

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§ 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 and the Contractor has advised the Owner in writing of the grounds for such 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 for the Project and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site for the Project, 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 site for the Project 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 notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect or the Owner may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect or the Owner to provide notice 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 written consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the site of the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly and expeditious progression and execution of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's and the Owner's approval. The Architect's and the Owner's approval shall not be unreasonably delayed or withheld, but such review shall be completed no later than fifteen (15) days after the Contractor submits the schedule. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect and the Owner 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.

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

§ 3.11 Documents and Samples at the Site

The Contractor shall maintain and keep available, at the site for the Project, a copy of the Drawings and Specifications, the Contract Documents, including Change Orders, Construction Change Directives, and other

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Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and shall be delivered to the Architect and 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 how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect and the Owner 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 and the Owner, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect and the Owner 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 and the Owner.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's or the Owner's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect and the Owner in writing of such deviation at the time of submittal and (1) the Architect and the Owner 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 and approved by the Owner 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 or the Owner'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 or the Owner on previous submittals. In the absence of such notice, the Architect's and the Owner'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

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responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect and the Owner. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect and the Owner will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

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

§ 3.13 Use of Site

The Contractor shall confine operations at the site for the Project to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site for the Project 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, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor, which may be withheld or deducted by the Owner from any payment to be made to the Contractor on the final Certificate of Payment, or collected by other means.

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer

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or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made or becomes known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect and the Owner.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner and its officials and 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. 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 Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 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.

§ 4.2 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 approves and issues and the Owner approves 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 of the Project during construction as agreed to by the Owner and the Architect in the Site Visitation Schedule incorporated into the Owner and the Architect's contract, or as otherwise agreed to by the Owner and the Architect, 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 promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. 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.

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§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors, Sub-Subcontractors, and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify additional communication protocols that do not contradict this Section 4.2.4.

§ 4.2.5 Based on the Architect's and the Owner'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, except that any Certificate of Payment shall be subject to final approval by the Owner before payment is made to the Contractor.

§ 4.2.6 The Architect and the Owner have authority to reject Work that, in the Architect's or the Owner's opinion, does not conform to the Contract Documents. Whenever the Architect or the Owner considers it necessary or advisable, the Architect or the Owner will have authority to require inspection or testing of the Work (by a North Dakota and/or federally licensed and/or registered engineer or testing agency where licensing and/or registering is required by law) in accordance with Sections 13.4.2 and 13.4.3, or other applicable provision in the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect or the Owner 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 or the Owner to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect and the Owner 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 or the Owner's action will be taken in accordance with the submittal schedule approved by the Architect and the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment or the Owner's 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 and the Owner'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 and the Owner's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's and the Owner'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 order minor changes in the Work as provided in Section 7.4, each of which shall be subject to review and approval by the Owner. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4, subject to the Owner's right to also investigate and make determinations 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; and 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 approve and issue a final Certificate for Payment, subject to the Owner's approval, pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect may provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site for the Project. .

§ 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 to the Contractor and the Owner within any time limits agreed upon or otherwise with reasonable promptness.

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§ 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 to the Contractor and the Owner 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.

§ 4.2.15 The Architect will provide any and all other services not set forth herein, but required of the Architect by the Contract Documents or the Architect's agreement with the Owner, and amendments thereto.

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 for the Project. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 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 for the Project. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Owner and Architect of the identities of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect or the Owner may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect or the Owner to provide notice 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 in writing to the Owner.

§ 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 or Sub-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 or Sub-subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

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

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the

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Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. 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; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

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

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. 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 term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. Contractor shall be entitled to make a Claim in accordance with Article 15 if its Work is delayed or costs are incurred due to such Separate Contractors.

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

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

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

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§ 6.2 Mutual Responsibility

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

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect and the Owner of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect and the Owner of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 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 that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and 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, subject to approval by the Owner.

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

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect or Contractor and signed by the Architect, the Owner and Contractor, 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, 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

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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 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect and the Owner shall determine 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 or the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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

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

§ 7.3.6 Upon receipt of a Construction Change Directive signed by the Owner, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect and the Owner 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.

§ 7.3.7 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 treated as a Change Order.

§ 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 and the Owner. 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 Owner will make an interim determination for purposes of monthly certification for payment for those costs and, upon written approval by the Owner, the Architect will certify for payment the amount that the Owner determines, in the Owner's judgment, to be reasonably justified. The Owner's interim determination of cost shall

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adjust the Contract Sum on the same basis as a Change Order, subject to the right of the Contractor to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 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 may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing, subject to approval by the Owner, and shall be binding on the Owner and the 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, subject to confirmation by the Owner, in accordance with Section 9.8.

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

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence any of the Work on the site for the Project or elsewhere prior to the effective date of insurance required 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 for any of the following circumstances when beyond the Contractor's control and documented in accordance with Section 15.16.1 and/or Section 15.16.2, as applicable (1) by an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution allowed under this Contract; or (5) by other causes that the Contractor asserts, and the Architect determines, subject to the Owner's agreement, justify delay, then the Contract Time shall be equitably adjusted through a Change Order.

§ 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.

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ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect and the Owner before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect or the Owner. This schedule, unless objected to by the Architect or the Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and the Owner before the Application for Payment to which the schedule of values are intended to apply and supported by such data to substantiate its accuracy as the Architect or the Owner may require, and unless objected to by the Architect or the Owner, shall be used as a basis for reviewing the Contractor's subsequent 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 and the Owner 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. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment as required by the Contract Documents, such as copies of requisitions, and releases and waivers of liens from Subcontractors, Sub-subcontractors, and 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 and the Owner, 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, Sub-subcontractor, or 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 the Project 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 for the Project at a location agreed upon in writing by the Owner and the Contractor. Payment for materials and equipment stored on or off the site for the Project shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site for the Project, for such materials and equipment stored off the site for the Project.

§ 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, Sub-subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, provided the Application of Payment has also been provided to the Owner, either (1) approve and issue, with Owner's approval, a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2)

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approve and issue, with Owner's approval, a Certificate for Payment for such amount as the Architect and the Owner determines is properly due, subject to the Owner's final decision-making authority on the amount properly due, and notify the Contractor of the Architect's or the Owner's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold, with Owner's approval, certification of the entire Application for Payment, and notify the Contractor of the Architect's and/or the Owner's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect and the Owner, based on the Architect's and the Owner's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's and the Owner's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect or the Owner. However, the issuance of a Certificate for Payment will not be a representation that the Architect or the Owner 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, Sub-contractors, and suppliers and other data requested by the Architect or 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 or the Owner 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 or the Owner's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect or the Owner is unable to certify payment in the amount of the Application, the Architect will notify the Contractor as provided in Section 9.4.1. If the Contractor, the Architect, and the Owner cannot agree on a revised amount, the Architect will promptly approve and issue, subject to the Owner's approval, a Certificate for Payment for the amount for which the Architect and the Owner are able to make such representations. The Architect or the Owner 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 approved and issued, to such extent as may be necessary in the Architect's or the Owner'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, or ensure payments are made, properly to Subcontractors, Sub-subcontractors, or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

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

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

§ 9.5.4 If the Architect or the Owner 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, Sub-subcontractor, or supplier to whom the Contractor failed to make payment, or failed to ensure proper payment was made, for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

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§ 9.6 Progress Payments

§ 9.6.1 After the Architect has approved and issued a Certificate for Payment, subject to the Owner's approval, the Owner shall make payment of amounts approved by Owner 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. Contractor shall verify that each Subcontractor has made the proper payment to Sub-subcontractors as required herein.

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

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

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor, Sub-subcontractor, or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not approve and issue a Certificate for Payment, subject to the Owner's approval, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment by the Owner and the Architect, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents for payment, the amount certified by the Architect and approved by the Owner, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. If the Contractor stops the Work due to the Owner's failure to pay as set forth in this Section 9.7, the Contract Time shall be extended appropriately through a Change Order and the Contract Sum shall be increased appropriately through a Change Order by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

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§ 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 and the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect and the Owner will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's and the Owner'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 or the Owner. In such case, the Contractor shall then submit a request for another inspection by the Architect and the Owner to determine Substantial Completion.

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

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

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner and the Contractor understand that throughout the Work, the site of the Project will continue to be occupied and used by the Owner for the operation of the Williams County Correctional Center as a jail. The Contractor and the Owner shall coordinate together with the Project Schedule and the Work to ensure the Owner's continued operation of the Williams County Correctional Center as a jail in a manner the Owner deems necessary and in accordance with law and jail standards.

§ 9.9.4 No provision under Section 9.9 is intended to interfere with, limit, or prohibit Owner's or the public's occupancy and use of the buildings, structures, and areas existing and being used prior to the execution of this Contract or any work done or completed prior to its execution.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect and the Owner will promptly make such inspection. When the Architect and the Owner finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly approve and issue a final Certificate for Payment, subject to the Owner's approval, stating that to the best of the Architect's and the Owner's knowledge, information and belief, and on the basis of the Architect's and the Owner's on-site visits and inspections of the site of the Project, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The final Certificate for Payment approved and issued by the Architect, subject to the Owner's approval, 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.

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§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect and the Owner (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, or will be promptly paid upon receipt of payment from the Owner, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor or Sub-subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all reasonable payments that the Owner has made in discharging the lien, claim, security interest, or encumbrance, 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 subject to Owner's final approval, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect and the Owner 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;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, Sub-subcontractor, or a 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, subject to the Owner's obligations for the safety of those persons incarcerated in the Williams County Correctional Center at the site of the Project.

§ 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 prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site for the Project, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site for the Project or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, equipment, machinery, appliances, 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.

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

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

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

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

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

§ 10.2.8 Injury or Damage to Person or Property

If either party or if any person at the Project site 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 the 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 and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and 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 at or on the Project site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify, in writing, the Owner and Architect of the condition.

§ 10.3.2 Upon the Owner's receipt of the Contractor's notice required by Section 10.3.1, 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 the material or substance or who are to perform the task of removal or safe containment of the 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 a reasonable 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 to the extent of the delay associated with stopping work, if necessary under this Section, as mutually agreed to by the Owner and the Contractor and the Contract Sum shall be

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increased, if necessary under this Section, by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up in an amount to be mutually agreed to by the Owner and the Contractor.

§ 10.3.3 The Owner shall be responsible to Contractor for any claims, damages, losses, and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from performance of the Work in the area affected by hazardous materials and substances 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) caused by the presence of hazardous materials and substances at the site of the Work, except to the extent that such damage, loss, or expense is due to the fault or negligence of the Contractor.

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

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the Project site and uses, stores, transports, and/or handles in a negligent, unsafe, or improper manner, 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 reimburse the Contractor for all cost and expense thereby incurred, except to the extent such cost and expense is caused by the Contractor's fault or 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, and shall provide at least 24 hour notice of such emergency to the Owner and the Architect. 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 Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions listed below, to cover the Contractor, and the Contractor's employees, officers, agents, Subcontractors, Sub-subcontractors, and all others acting, directly or indirectly, on behalf of or for the Contract in relation to the Project or the Work. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. Each such insurance shall be purchased and maintained without interruption from the date of commencement of the Work until final payment to the Contractor, unless otherwise stated in the Contract, except for insurance required to be maintained after final payment to cover the Contractor's completed operations coverage, which shall continue until expiration of the period for correction of Work or for such other period for maintenance of the completed operations coverage as specified in the Contract Documents.

The Owner, the Architect, and the Architect's consultants shall be named as an additional insured under the Contractor's commercial general liability policy.

- .1 Workers' Compensation and Employer's Liability
State Statutory, as required by law
Employer's Liability \$1,000,000
- .2 Commercial General Liability
\$3,000,000 – Bodily Injury & Property Damage – Each Occurrence
\$6,000,000 – General Aggregate Limit
\$6,000,000 – Completed Operations Aggregate Limit

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.3 Automobile Liability
\$1,000,000 – Combined Single Limit

.4 Excess Liability
\$5,000,000 – Bodily Injury & Property Damage Each Occurrence
\$5,000,000 – Annual Aggregate Limit
\$5,000,000 – Completed Operations Aggregate Limit

.5 Builder's Risk
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 on and off the Project site and portions of the Work in transit on a replacement cost basis. Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against property damage, the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, lightning, arson, collapse, explosions, theft, vandalism, malicious mischief, collapse, earthquake (subject to sublimit), flood (subject to sublimit), windstorm, hail, high winds, smoke, other inclement weather, materials in transit, 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.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents and state law, including, but not limited to, N.D.C.C. Chapter 48-01.2. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located. Written proof of the bonds shall be provided to the Owner prior to commencement of the Work.

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

§ 11.1.4 Certificates of insurance required by this Section 11.1 shall be provided to the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of *(Paragraph Deleted)*

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 (10 days for non-payment of premium). 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 Owner's request at renewal or replacement of such coverage until the expiration of the time required by Section 11.1.1.

§ 11.1.5 If the Builder's Risk insurance requires deductibles, the Owner shall pay all costs within such deductibles. Builder's Risk insurance shall be maintained until Substantial Completion is achieved.

§ 11.2 Owner's Insurance

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

§ 11.3 Waivers of Subrogation

§ 11.3.1 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; (2) the Architect and Architect's consultants; and (3)

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Separate Contractors, 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 those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Work, the Project, or the Project site, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the Project 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 waives all rights in accordance with the terms of Section 11.3.1 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.

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

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

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, or the Owner's inability to conduct normal operations, due to fire or other hazards however caused. This waiver includes any consequential damages arising from such loss or inability.

§ 11.5 Adjustment and Settlement of Insured Loss

A loss insured under the property insurance required by the Agreement shall be adjusted by the Contractor as fiduciary and made payable to the Contractor as fiduciary for the insureds, as their interests may appear. 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.

(Paragraph Deleted)

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 or the Owner's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect or the Owner, be uncovered for the Architect's or the Owner'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 or the Owner has not specifically requested to examine prior to its being covered, the Architect or the Owner may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment, by an appropriate Change Order, to the Contract Sum and Contract Time. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or the Owner or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost

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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 any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. 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 2.5.

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

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

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

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

§ 12.2.5 Nothing contained in this Section 12.2 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 12.2.2 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 as mutually agreed to by Owner and the Contractor. 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.

§ 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 its rights and obligations under this Contract, or the whole or any part of the Contract, without written consent of the other, except as specifically authorized by this Contract. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

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

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely written notice to the Architect and the Owner of when and where tests and inspections are to be made so that the Architect and the Owner may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

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

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

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

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest at the same rate as stated in Section 5.2.2 of AIA Document A133-2019, executed by the Owner and the Contractor.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

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

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

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- .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 approved and issued a Certificate for Payment, subject to the Owner's approval, 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, after the Contractor's written request under the circumstances allowed by Section 2.2, reasonable evidence as required by Section 2.2.

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

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' 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, and fails to ensure that payments are made to, Subcontractors, Sub-subcontractors, or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors, between the agreements between the Subcontractors and the Sub-subcontractors, or any agreements between the Contractors, Subcontractors, and/or Sub-subcontractors and suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority, or the Owner's security protocols and procedures for the site of the Project; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect, or upon the Owner's sole determination, that sufficient cause under Section 14.2.1 exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

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

§ 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

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expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

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

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

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

§ 14.4 Termination by the Owner for Convenience

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

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts, and reasonable overhead and profit on the Work not performed as mutually agreed to by the Owner and the Contractor.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

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

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the final dispute resolution method selected in the Agreement within the period specified by applicable law.

§ 15.1.3 Notice of Claims

Claims by either the Owner or Contractor shall be initiated by written notice to the other party and to the Initial Decision Maker. Claims by either party shall 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.

(Paragraph Deleted)

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§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 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.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted, if necessary, in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will prepare Change Orders, subject to written approval of the Owner, and issue Certificates for Payment, subject to the written approval of the Owner, in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work, as well as the reason for the Claim for additional time and documentation by data substantiating the reason and the claim for an increase in Contract Time. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, in addition to the requirements of Section 15.1.6.1, such Claim shall also be documented by data substantiating that the adverse weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the Contract Time for the scheduled construction.

§ 15.1.7 Waiver of 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.

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 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker. 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. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation without a 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

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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 the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished and the reasons why 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 of any recommended 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 15.1.7, 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 a mutually agreed to mediator registered with the North Dakota Supreme Court State Court Administrator for Alternative Dispute Resolution, at a time and location mutually agreed to by the parties. A request for mediation shall be made in writing, delivered to the other party to the Contract. 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.

§ 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.

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Exhibit B (Construction Manager's Logistics Rental Rates) has been removed from this redacted version of the Contract.

Exhibit C



EAPC
 Administration Enforcement
 3100 Dakota Avenue, Grand Forks ND 58001
 TEL 701.773.3000 FAX 701.772.3665
 WWW.EAPC.NET

CONSULTANTS

CLIENT
 Williams County Law Enforcement Center

PROJECT DESCRIPTION
 #####

CITY WILLISTON
STATE ND

ISSUE DATES
 09/23/2024

Exhibit C

NO.	DATE	BY

PROJECT NO. 20232310
DRAWN BY: BEY
CHECKED BY: #BE

DATE: #BE
 ALL WORK SHOWN IS BASED ON THE RECORD DRAWINGS AND FIELD SURVEY. THE CONTRACTOR SHALL VERIFY ALL CONDITIONS AND CONDITIONS OF THE SITE PRIOR TO CONSTRUCTION.

STAMP

DRAWING TITLE
 EXIST. FIRST FLOOR PLAN

A100

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

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) business day 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 "Project Management and Coordination" 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. Refer to Division 01, Section "Contract Modification Procedures" and other Subcontract Documents for specific requirements regarding Construction Change Directives (CCD).
2. 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 Project will not utilize Building Information Modeling.
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. 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.

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 Procedures" 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 "Demonstration and Training" 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 "Project Record Documents" 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: Williams County LEC Infirmery
Owner: WILLIAMS COUNTY ND
Architect/Engineer: ENGINEERS-ARCHITECTS PC DBA EAPC
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

SECTION 00 73 00.C
ATTACHMENT C - SPECIAL PROJECT
REQUIREMENTS FOR EXISTING FACILITIES



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 minimum of a forty-eight (48) hour 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 Corrections 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

SECTION 00 73 10
SPECIFIC PROJECT REQUIREMENTS:
TEMPORARY FACILITIES AND CONTROLS



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. 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 unless express permission is received by Owner.
7. Temporary Stairs: Not applicable.
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. Contractor will provide an outdoor temporary water connection (hydrant meter) at project site. Temporary water connection will not be available inside the renovation area. Disposal of waste water from construction activities must be coordinated and approved by Contractor and Owner.
2. Each Subcontractor shall provide drinking water for their own forces.

3. 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.

E. Temporary HVAC

1. Contractor will provide temporary heating, air conditioning, and/or dehumidification if determined necessary at a later date. Means & methods will be coordinated by Contractor with the Owner as necessary at a later date.
2. Subcontractor shall be solely responsible, at its own cost, for providing, installing, operating, monitoring, and removing all temporary ventilation/exhaust and other air quality control measures required for the safe performance of its Work. This obligation applies to whenever Subcontractor's work activities, materials, equipment, and/or methods generate (or may generate) fumes, vapors, dust, smoke, odors, or other airborne contaminants. All ventilation/exhaust and air quality control measures shall comply with applicable OSHA requirements, local codes, industry standards, and manufacturer safety data sheet (SDS) recommendations.

F. Temporary Electrical (Power, lighting, fire alarm)

1. Owner will pay temporary service and permanent service usage costs for standard electrical power (120/208V).
2. Subcontractor shall be solely responsible, at its own cost, for providing, installing, operating, fueling, maintaining, and removing any generators or temporary power equipment if 480V (or higher) power is required for the performance of its Work.
3. 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.
4. 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.
5. Each Subcontractor shall coordinate and pay for any further special temporary electrical requirements with the Electrical Subcontractor. Approval shall be provided by the Contractor.
6. 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.
7. Additional temporary task lighting requirements shall be the responsibility of individual Subcontractors.

8. 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 minimize OR 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 dumpster and material 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. On-site temporary offices and storage facilities will not be permitted by the Owner.
- 2. Reference the Site Access Plan for dumpster and material staging area provided by Contractor.

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. Temporary roads, crane roads and pads: Not applicable.
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. Traffic controls provided by Contractor (if any) will be specifically defined on the Site Access Plan.
6. Each Subcontractor is responsible for daily cleaning of streets from dust, debris, and mud track-out as a result of their Work.

Q. Water and Snow Removal

1. Dewatering Facilities and Drains: Not applicable.
2. Snow and Ice Removal: Not applicable.

R. Security and Protection Facilities Installation

1. Temporary Erosion and Sedimentation Control: Not applicable.

2. Stormwater Control: Not applicable.
 3. Tree and Plant Protection: Not applicable.
 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: Contractor 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.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 00 73 16
INSURANCE PROGRAM – DCIP (GL Only)



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 and Workers' Compensation

****NOTE: TRADE PARTNER SHALL EXCLUDE COST OF
ON-SITE GL AND WORKERS' COMPENSATION
INSURANCE FROM BID.**



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THIS MANUAL IS PART OF YOUR CONTRACT.

Dunn VII Version 2-2023 \$50M excess

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- Trade Partner Enrollment Application
- Estimated Exposure Worksheet
- Assignment and Transfer Form
- Certificate of Insurance – Enrolled Trade Partner
- Certificate of Insurance – Non-enrolled Trade Partner
- Payroll Reporting Form
- Notice of Completion
- Workers’ Compensation Report of Injury
- 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, onsite Workers' Compensation, onsite Employer's 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** Workers' Compensation coverage costs from pricing; include all other insurance costs as required by this manual and Contract in the price.
- ✓ Complete and submit all enrollment documentation prior to starting work. (Section XIII)
- ✓ 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 VI and Section XIII)
- ✓ Report all jobsite payrolls to Lockton Companies, LLC as required. (Section X)
- ✓ Inform Lockton Companies, LLC of all Lower Tier Trade Partners prior to their starting work.
- ✓ Comply with all on-site safety requirements including, but not limited to, the DCIP Project Safety Program. (Section XII and http://sms.jedunn.com/safety_program)
- ✓ Immediately report accidents or occurrences as required in the Claims Procedures. (Section XI)
- ✓ Participate in the Return-to-Work/Modified Work Program. (Reference Section XII *DCIP Project Safety Program* at Section 6.0 Return-to-Work/Modified Work Program)

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 XIII)
- ✓ Comply with all on-site safety requirements including, but not limited to, the DCIP Project Safety Program. (Section XII and http://sms.jedunn.com/safety_program)

- ✓ Immediately report accidents or occurrences as required in the Claims Procedures. (Section XI)

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 is 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 XII – *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, Estimated Exposure Worksheet, and a certificate of insurance complying with the requirements herein.
- ✓ **Payroll Reporting:** The Payroll Reporting Form must be completed each month by Enrolled Trade Partners and any lower tiers of Trade Partner(s) on the Jobsite for **each** Contract awarded, including zero payroll if applicable, until completion of the Work under each Contract. Enrolled Trade Partners should not report the payroll from this Project to its individual insurance carrier.
- ✓ **Experience Modification:** Trade Partners' payroll and losses will be reported to NCCI. This experience will be used to calculate the Trade Partner's future experience modifications.
- ✓ **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-WC/GL Program form. (Section XIII *Enrollment Forms*).

3. Ensuring lower tier Trade Partner(s) bids **exclude onsite General Liability and Workers' Compensation coverage cost** but include all other insurance required by this manual.

All Enrolled Trade Partners will be required to meet the DCIP requirements as outlined in Section V. Miscellaneous 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.**

The DCIP provides some, but not all, insurance coverages typical to construction projects. Refer to Section IX to review what is provided. Contact the Contractor if you have questions regarding other coverages.

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 should 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

J.E. 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.

DCIP Administrator

Lockton Companies, LLC

444 West 47th Street, Suite 900

Kansas City, Missouri 64112-1906

Phone: 816-960-9000

E-mail: WrapUpCIPCoordinators@lockton.com

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)

Workers' Compensation and Employer's Liability: Liberty Insurance Corp.

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

Payroll

Total earnings of the Trade Partner employees while working at the Jobsite in accordance with NCCI rules for Workers' Compensation payroll reporting.

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 XIII Forms)

- Trade Partner Enrollment Application.
- Estimated Exposure Worksheet.
- Certificate(s) of insurance.

Failure to complete the enrollment forms may result in one or more of the following:

- No admittance to jobsite.
- Progress payments withheld.
- No insurance coverage provided by the DCIP policies.
- Future Work opportunities on the Project could be jeopardized.

Each Trade Partner is responsible for assisting the DCIP Administrator in obtaining all completed enrollment forms from their lower tier Trade Partners.

Note: Online enrollment is available. A link, along with enrollment instructions will be provided by the DCIP Administrator.

Prior to starting work.

- Employees must complete project orientation and drug testing. (Section XII *DCIP Project Safety Program*).

Additional Form Completion Notes and Deadlines.

- Payroll Reports due on the 10th day of the month following end of reporting period.**
 - Online reporting is encouraged. A link, along with reporting instructions, will be provided by the DCIP administrator.
 - Form (should online reporting be impractical): Payroll Reporting Form
- An end of contract completion report due within 15 days of completion of Contract.**
 - Form: Notice of Completion.
- Updated Trade Partner Enrollment Application(s) – specifically noting any new lower tier Trade Partners added after original enrollment.**
 - Form: Trade Partner Enrollment Application

EMAIL Enrollment Forms:

Attn: DCIP Coordinator
Lockton Companies, LLC
E-Mail: WrapUpCIPCoordinators@lockton.com

NOTE: Submission of an application for enrollment does NOT constitute acceptance into the DCIP. Enrollment is not complete until the DCIP Administrator has provided notice of enrollment in writing.

IV. Administrative Contacts

DCIP Administrator (Broker)	Chris Severe, Wrap-Up Administration Manager Lockton Companies, LLC 444 West 47th Street, Suite 900 Kansas City, Missouri 64112-1906 Phone: (816) 960-9786 csevere@lockton.com
Loss Control	James Robles, National Safety Director JE Dunn Construction Company 1601 South Mopac Expressway, Barton Skyway Tower, Suite 450 Austin, TX 78746 (512) 687-6146 james.robles@jedunn.com
Claims Consultant (Work Comp)	Travis Trautman, Claims Consultant Lockton Companies, LLC 444 West 47th Street, Suite 900 Kansas City, Missouri 64112-1906 (816) 960-9132 ttrautman@lockton.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
Workers Compensation Claims	Makenzie Tetlow J. E. Dunn Construction Company 1001 Locust Street Kansas City, MO 64106 (816) 292-8787 makenzie.tetlow@jedunn.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

IV. Administrative Contacts

Contact for Filing Claims

Beth Brown
J. E. Dunn Construction Company
1001 Locust Street
Kansas City, MO 64106
(816) 292-8732
claims@jedunn.com

VI. Insurance to be Furnished by Enrolled Trade Partners

Audits

All payroll records and bidding records regarding insurance pricing related to this DCIP are subject to physical audit by the Contractor, DCIP Administrator or Insurer. Audits may be conducted after the anniversary date of Project commencement to verify the reported payroll. The Insurer reserves the right to audit Enrolled Trade Partners' payroll records and bid records related to insurance pricing at any time, subject to one week's written notice of such audit.

If an audit reveals costs which relate to onsite General Liability or Workers Compensation 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, including Workers Compensation, 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.

Return to Work/Modified Work Program (RTW/MWP)

An Enrolled Trade Partner's failure to participate in the RTW/MWP as described in Section XII *DCIP Project Safety Program* will result in a liquidated damage assessment to the Trade Partner of \$1,500 weekly as allowed by jurisdiction until such time as the injured worker is returned to work in either a modified duty position or full duty. The Enrolled Trade Partner agrees that such damage assessment will be issued through a unilateral deductive change order or other means approved by the Contractor.

Employee Safety Orientation

All project personnel shall complete the DCIP employee safety orientation as described in Section XII *DCIP Project Safety Program*. Failure to ensure that all personnel complete orientation may result in a liquidated damage assessment to the Enrolled Trade Partner of \$1,500 per injured employee. The Enrolled Trade Partner agrees that such damage assessment will be issued through a unilateral deductive change order or other means approved by the Contractor.

Medical Managed Care

When a DCIP project is in a state with an optional medical management program, the Contractor will utilize such programs. Trade Partners will be required to utilize such programs, including, but not limited to, the Texas Healthcare Network.

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. **OFFSITE Workers' Compensation and Employer's Liability Insurance.** Enrolled Trade Partners must obtain and maintain Workers' Compensation insurance for activities **not on the Jobsite** 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.

VI. Insurance to be Furnished by Enrolled Trade Partners

- 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, (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 automobile liability 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 purchase and 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

VI. Insurance to be Furnished by Enrolled Trade Partners

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 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 applicable to Trade Partner as defined in their Contract's scope of work).** 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).

VI. Insurance to be Furnished by Enrolled Trade Partners

- 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.** 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.
- B. **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.
- C. **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.
- 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 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.

VI. Insurance to be Furnished by Enrolled Trade Partners

- 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 complying with these requirements must be received by Contractor's DCIP Administrator 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 automobile liability 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.

- 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 purchase and 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:

VII. Insurance to be Furnished by Non-Enrolled Trade Partners

**\$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 applicable to Trade Partner as defined in their Contract's scope of work).** 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), 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).

VII. Insurance to be Furnished by Non-Enrolled Trade Partners

- 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

- 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.
- 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.
- 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), any 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 Contractors 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.

VII. Insurance to be Furnished by Non-Enrolled Trade Partners

- 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.

Trade Partner shall verify that their lower tier Trade Partners have met the Workers' Compensation insurance requirements, as required by law, including but not limited to collecting all required certificates of insurance.

4. General Requirements

- A. Certificates of insurance and endorsements complying with these requirements must be received by Contractor or Trade Partner 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.

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. Workers' Compensation and Employer's Liability Insurance

Workers' compensation insurance will be provided through a National Council on Compensation Insurance (NCCI) standard policy coverage form of insurance in accordance with applicable laws of each state. In addition, Employer's Liability insurance, including Occupational Disease coverage, shall be provided with the following policy limits:

\$1,000,000 Each Accident
\$1,000,000 Each Employee
\$1,000,000 Aggregate - Policy Limit

- ✓ No coverage is provided for any work at a location not included in the Jobsite.
- ✓ Workers' Compensation will be primary and non-contributory with respect to persons directly engaged in performance of Work included in the Jobsite.

Payrolls and losses will be filed with the appropriate Workers' Compensation rating bureau and will affect the experience modification of Enrolled Trade Partners.

The Enrolled Trade Partner shall advise its current carrier(s) to exclude payroll for the Work at this Jobsite.

2. 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.

IX. DCIP Insurance Provided for Enrolled Trade Partners

Policy limits:

- \$5,000,000 Each Occurrence
- \$10,000,000 Products/Completed Operations Aggregate
- \$10,000,000 General Aggregate

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.

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.

3. Excess Liability

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. Limits may be revised for different phases of the Project.

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.

Workers' Compensation: Liberty Insurance Corp.

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. Payroll Reporting

A payroll reporting form must be completed each month by Enrolled Trade Partners and any lower tiers of Trade Partner(s) on the Jobsite for each Contract awarded, including zero payroll if applicable, until completion of the Work under each Contract. The completed form shall be sent to the DCIP Administrator by the 10th day of each month, or payments to Trade Partners may be withheld. The Trade Partner is responsible for enforcing the submission of all forms by its lower tier Trade Partner(s).

Online payroll reporting is encouraged. A link, along with reporting instructions, will be provided by the DCIP Administrator. If online reporting is impractical, a payroll reporting form must be submitted. Computer-generated payroll reports are acceptable if similar information is provided.

Payroll Reporting Form Instructions

1. **Reporting Period:** Enter the reporting period for which this report is supplying payroll information.
2. **Company Name:** Enter Trade Partner's name.
3. **Workers' Compensation Class Code:** List Trade Partner's Workers' Compensation class code(s). This information can be obtained from Trade Partner's Workers' Compensation policy, its insurance agent, or the information supplied on the Estimated Exposure Worksheet. The form will need to be revised if there are additional class codes listed on the monthly reporting form that were not listed on the Estimated Exposure Worksheet.
4. **Man-hours and Payroll:** List man-hours and payroll for each class code. List straight time and overtime. List one cumulative total for all employees who fall under each class code. There is no need to break out figures on a per employee basis.
5. **Sign and Date Form.**

Other Instruction and Requirements

Audit

All payroll records related to this DCIP are subject to physical audit by an auditor representing the Contractor, DCIP Administrator or Insurer. Audits will also be scheduled shortly after the anniversary of Project commencement to verify the prior years reported payroll. The Insurer reserves the right to audit Enrolled Trade Partners' payroll records at any time, subject to one week's written notice of such audit.

Employer Verified Payroll

DCIP payroll reports must reflect accurate payroll certified by the Trade Partner. Signature verification by your controller or another company officer is adequate to certify your payroll report.

Class Codes

Trade Partner shall utilize the NCCI classification for assigning Workers' Compensation codes for each of its employees. Any questions regarding classification should be directed to the DCIP Administrator.

Multiple Contracts

If a Trade Partner has multiple Contracts for work on a Jobsite, that Trade Partner shall complete a separate Payroll Reporting Form for each Contract.

X. Payroll Reporting

DCIP Payroll

Reported payroll shall include the total payroll and hours split out by Workers' Compensation Class Code for all employees working on the Jobsite based on the NCCI rules for payroll inclusion.

Overtime Payroll

Earnings for any overtime work should be reported at the straight-time rate: overtime hours multiplied by straight-time hourly wage. Do not include the premium portion of the wage paid to the employee. Overtime means those hours exceeding 8 hours worked each day, 40 hours in any week, or work on Saturdays, Sundays, or holidays, but only when there is an increase in the hourly rate to work such hours.

SAMPLE CALCULATION

	Hours	Wage Rate	Payroll	DCIP Payroll
Straight Time	40.00	\$10/hr.	\$400	\$400
Overtime	20.00	\$15/hr.	\$300	\$200
TOTAL	60.00		\$700	\$600

Records Retention

Payroll records (related to Jobsite Work) for employees covered by the DCIP should be maintained separately from all other Enrolled Trade Partner payroll records. These records shall be retained for three years following completion of your Work under each Contract with the Contractor, or for a period specified in your Contract, whichever is longer.

Report Due Date

Regardless of your accounting period, payroll reports (DCIP Payroll Report or equivalent) are due by the 10th day of each month.

If online reporting is impractical, payroll reporting forms must be submitted to:

Lockton Companies, LLC
444 West 47th Street, Suite 900
Kansas City, Missouri 64112-1906
Attn: J.E. Dunn DCIP Administrator
Phone: (816) 960-9000
E-mail: WrapUpCIPCoordinators@Lockton.com

Failure to provide reports by the due date will cause your payments to be delayed.

Please Note: All Enrolled Trade Partners must report man-hours and payroll. This includes time and materials, GMP, and lump sum type contracts.

1. **Workers' Compensation Claims:** Enrolled Trade Partner personnel **must** follow these procedures whenever an employee is involved in **any** accident or occurrence resulting in an injury, or whenever complaints of illness or discomfort arise while working on the Project Site.
 - A. Immediately contact the Trade Partner's supervisor to report **all** incidents. The Trade Partner's supervisor shall contact the Project safety office to arrange for care. If emergency transportation is required, call the designated emergency number **first**, and then immediately call the Project safety office to report the injury.
 - B. Once serious incidents are under control, the Workers' Compensation Report of Injury form must be completed, and a copy sent to the Project safety office for all incidents. (Section XIII *Forms*)
 - C. All incidents shall be reported immediately to the Project safety office of the Contractor and any required accident report forms completed. The Project safety office shall review the report for accuracy within 24 hours. The report shall be forwarded by the Project safety office to the DCIP Claim Resource Specialist for transmittal to the Insurer.
 - D. OSHA 300 Log - OSHA requires employers to maintain a log of workplace injuries based on their guidelines defining a reportable incident/injury. It is the responsibility of the Trade Partners to maintain this log and comply with all other applicable regulations. The Project safety office will maintain a cumulative log of all injuries on the Project site.
 - E. A supply of pre-printed accident/incident forms shall be maintained at the Project safety office, at the Contractor's designated site, or on the Project intranet/website.
 - F. Injured employees must be returned to work or services when released by the medical provider for modified duty, except as otherwise authorized by the Contractor. Such modified duty shall be at pre-injury wage rate, except as authorized by the Contractor or as otherwise controlled by state statute. (Reference Section XII *DCIP Project Safety Program*, at Section 6 *Return to Work/Modified Work Program*.)
 - G. Non-enrolled Trade Partners must notify the Contractor of any incident on the Project Site. Claims should be reported to the respective Trade Partner's workers compensation insurance carrier.

2. **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 XIII *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

XI. Claim Procedures

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 judgement 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).

3. **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.

4. 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.

5. 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:

- 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.

XI. Claim Procedures

6. 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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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.

XII. CIP Project Safety Program

1.0 INTRODUCTION & POLICY STATEMENT

The Project team is 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.

Successful safety performance requires the combined efforts of the Contractor, Trade Partners, all Project participants, and all employees. It is very important that the team addresses this objective in order to maintain the safest and most successful Project in the construction industry.

The Contractor's national Safety and Health Manual can be found at http://sms.jedunn.com/safety_program. Adherence to the Safety and Health Manual **is a requirement** for all partners on all of Contractor's projects.

Additionally, the Contractor and the DCIP Administrator have prepared the DCIP-specific Project Safety Requirements. The Safety and Health Manual, as well as the DCIP-specific Project Safety Requirements and any Site-Specific Safety Plan, are binding terms for all Enrolled and Non-enrolled Trade Partners. The Contractor's agreement with the owner may also include specific safety requirements. **Together, these items comprise the core of the total "Project Safety Program" for the DCIP Project.**

It is a requirement of all Trade Partners that all components of the Project Safety Program be included in all Project contracts of any tier.

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 to 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.

In the event of a conflict and/or ambiguity between various statutes, law, regulations or standards and this Project Safety Program, interpretation by the Project 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 definitions also apply:

Project Safety Program: shall be comprised of the Contractor's national Safety and Health Manual, the DCIP-specific Project Safety Requirements, any Site-Specific Safety Plan, and any aspects of the owner agreement. It also includes OSHA regulations, other applicable regulations (federal, state or local), and any other provisions necessary to operate and enforce the program.

Contractor's Representative: the person(s) designated by the Contractor as having the responsibility to monitor the Project Safety Program.

XII. CIP Project Safety Program

Project Safety Manager: A specific safety specialist assigned to the Project; may be one and the same as Contractor's Representative.

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.

Note: Capitalized terms used in this Section XII but not defined herein may refer to terms used in Contractor's national Safety and Health Manual or may refer to standard terms recognized in the industry. Any questions regarding such terminology shall be directed to Contractor's Representative.

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 compliance with the Project Safety Program by its lower tiers.

The Trade Partner shall communicate the contents of this Project Safety Program to their workers and provide regular updates. Trade Partner personnel, suppliers, consultants, agents, and visitors shall, at 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 any part of the Project Safety Program will be considered noncompliance with the Contract and may result in remedial action, including withholding of payment of any sums due and/or removal of the Trade Partner from the Project Site.

Trade Partners shall take all necessary precautions to protect the public from any hazards involving safety and health arising from their Work. All construction activities shall be isolated from the public to the greatest extent possible.

Trade Partners 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 shall have full 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 owed to any Trade Partner.

If at any time the Trade Partner is performing Work under more than one contract at the Project Site or intends to or does have fifty (50) or more employees on site ("High employment"), such Trade Partner will have a full-time safety representative with no other craft or supervisory duties assigned. This requirement is to ensure the safety of its operations and to protect all of the stakeholders during the period of such High employment. If the Trade Partner does not comply with this requirement, Contractor may elect to supplement this personnel resource at Trade Partner's expense and without authorization from Trade Partner.

XII. CIP Project Safety Program

Each Trade Partner Safety Representative shall have the experience, ability, and authority to act on behalf of the respective Trade Partner and its lower tiers regarding matters of safety on the Project. Costs of Trade Partner's participation are the responsibility of the Trade Partner. Selection of the Representatives is subject to approval by Contractor, and candidate resumes must be submitted in a timely manner for review. 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. The Trade Partner agree to make their designated Trade Partner Safety Representative available for additional specialized safety training over and above the normal duties stated above, as deemed appropriate by the Contractor. If the Trade Partner does not comply with the safety requirements, Contractor may elect to supplement safety personnel resources at Trade Partner's expense and without authorization from the Trade Partner.

Trade Partners shall provide the following items before commencement of Work and/or throughout the life of the Project:

- A copy of its corporate safety and health program/manual;
- A copy of its project-specific safety plan;
- A list of "competent personnel" designated by the Trade Partner (on company letterhead);
- Job hazard analyses (JHA) that define the scope of work, activities and risks involved with the scope of work, and the methods Trade Partner will use to mitigate and eliminate such risks (the JHA should be available prior to preinstallation meeting);
- Confirmation of compliance with daily job safety analyses (JSA);
- Written Hazard Communication Program;
- Written Housekeeping Plan;
- Written Cord Management Plan;
- Written Exposure Control Plan for Silica, when applicable;
- Acknowledgement and implementation plan for a "Ladders Last Policy";
- Heat Illness Prevention Plan;
- A list of chemicals used on the Jobsite in the performance of the Work;
- Copies of Material Safety Data Sheets (MSDS) for each chemical used on the Jobsite;
- Documentation of required training for Project employees as it applies to their Work;
- Inspection process and periodic inspections of the Work area;
- Copies of accident investigations (within 24 hours of occurrence) for any incident or near miss occurring at the Project Site;
- Incident log of occupational injuries and illnesses that occur on the Jobsite, including a 300 log, when requested;
- Records of the disposal of chemicals/materials or any other hazardous wastes used on the Jobsite in the performance of the Contract;

XII. CIP Project Safety Program

- Proof of compliance with storm water discharge environmental regulations (the Contractor, at its option, may choose to create and maintain this documentation for the Trade Partners); and
- Leading and Lagging Safety Indicators reported electronically through the Contractor's Project intranet or website (weekly requirement).

Employees are prohibited from carrying weapons or ammunition to the Project Site or carrying weapons while performing Work on the Project or attending Project-sponsored activities.

Trade Partner further agrees to comply with any postings or notices placed on site by the Contractor's representative regarding safety, security, or weapons.

The Contractor has adopted a policy of a drug free work site on the Project. This may include, but is not limited to, pre-work, just cause, random, general or shift, and post-accident drug screening as required by the Contractor. Employees are prohibited from use and possession of alcoholic beverages or drugs (other than prescription) while performing Work on the Project Site or attending Project-sponsored activities.

All Trade Partner employees must provide the Contractor's Representative satisfactory evidence of a negative drug screen at the designated clinic before being allowed to work on the Project. If the Trade Partner utilizes a clinic or service other than the one designated by the Contractor, the testing methods, procedures, protocols, and reporting procedures utilized will be subject to approval by the Contractor. The negative drug screen shall be provided no later than at the time of safety orientation of the employee and prior to commencing work. Employee drug screening shall have been performed within the 45 days prior to the employee's start date on the Project. Worker participation in a bona fide substance abuse program may, subject to approval by the Contractor and Insurer, meet the requirement for pre-work drug testing. Whenever an employee sustains a work-related injury, a drug and alcohol test is necessary. Such tests will be administrated at the time an injured worker receives medical treatment resulting from the incident. Testing is not limited to the injured employee but may be required of any person(s) involved in the incident as required by the Project Safety Manager. The cost of the testing is the responsibility of the Trade Partner.

All unauthorized personnel (individuals on site without an identification badge/sticker/beacon) wishing to enter the Project Site must have the permission of the Contractor or its designee. Permission will only be given upon verification that the unauthorized personnel will always be accompanied by an authorized employee.

The Trade Partner shall provide each worker on the Jobsite the proper tools and equipment to safely perform his/her job. Additionally, all personal protective equipment (PPE) shall meet all Owner and Contractor requirements. Such PPE shall be supplied, inspected, and maintained by the Trade Partner at Trade Partner's expense. Contractor has adopted a glove policy and culture on this Project. Trade Partners must provide adequate and appropriate hand protection (i.e., gloves) for each employee based on task specific risks. At a minimum, gloves must meet a cut level protection equivalent to an ANSI 2/EN 3 as it pertains to a scale of 1-5. An appropriate inventory of gloves shall always be provided and maintained by each Trade Partner.

Trade Partners must implement a Ladders Last Policy approach in accordance with Contractor's national Safety and Health Manual. Ladders Last seeks to mitigate and eliminate the use of ladders,

XII. CIP Project Safety Program

including step ladders, where practicable. The intent is to eliminate work at heights, substitute (using ladder alternative options) with lifts/scaffolding equipment and choose a platform ladder with defined safety precautions as a last option(must include risk assessment).

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 attendee names. A copy of the toolbox talk must be transmitted weekly to the Contractor's Representative. If a limited number of onsite employees for the Trade Partner makes a talk impractical, any onsite employees shall attend the weekly toolbox talk scheduled by the Contractor. Contractor reserves the right to call additional safety meetings, to include safety stand-downs or re-focus meetings, when conditions warrant. These safety meetings will be at the expense of Trade Partner. Training materials are available through trade associations, insurance companies, and the Project Safety Manager.

Trade Partners shall comply with all floor hole and opening requirements set-forth in Contractor's Safety and Health Manual. All protective covers shall be mechanically fastened to floor or structure, and floor hole cover removal permits are required when removing any protective covers.

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 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 Contractor's Representative, exhibits an unsafe attitude. The Contractor and/or the Contractor's Representative 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 Project 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.

Trade Partners, without exception, must comply with Contractor's safety and health policies as outlined in the Safety and Health Manual, with special emphasis and actions placed on fall protection, falling object/overhead protection, floor holes and openings, mobile elevated work platforms, precast erection and steel erection.

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 (24 hours) of notification of the unsafe condition or hazard alert, must correct the hazard(s) and/or unsafe act(s) or remove defective equipment from the Project Site. Upon expiration of the 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

XII. CIP Project Safety Program

Partner.

Trade Partners encountering safety hazards beyond their control or expertise to correct must notify the Contractor of their concerns. Failure on the part of the Contractor 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.

4.0 EMPLOYEE SAFETY ORIENTATION

All Trade Partners shall require their employees to complete a project safety orientation prior to being able to enter the Project Site. The Contractor will provide general safety orientation to all workers before the start of their first day. Safety orientation for employees will be approximately two hours in length or as deemed appropriate by the Contractor's Representative. Each Trade Partner will be responsible for contacting the Contractor's Project safety office to schedule each worker for this training. Training shall include: introduction to the project safety plan, JSA requirements (daily), proper use of personal protective equipment requirements (such as hard hats, safety glasses with rigid side shields (z87.1), hand protection (100% gloves), hearing protection, foot protection, and other clothing requirements), fall protection, falling object protection, floor hole/openings, emergency preparedness, and applicable hazard communication awareness. It is the Trade Partners' responsibility to provide task specific safety training for their workers. An identification badge/sticker or beacon will be issued to all individuals who have completed safety orientation and have provided evidence of a negative drug screen. All personnel who have access to the Project Site are required to wear the identification. The Contractor will monitor employees for proper identification.

Failure to ensure all personnel complete orientation will result in a liquidated damage assessment of \$1,500 per untrained employee. Such assessment will be issued through a unilateral deductive change order or other means approved by the Contractor.

5.0 ENFORCEMENT PROGRAM

To ensure compliance, the Contractor will place all workers on site under a three-step enforcement program consisting of the following: verbal warning for the first violation; written warning for a second violation; and revocation of eligibility to work on the Project Site for a third violation. However, episodes of gross misconduct by an employee for any reason may result in immediate disciplinary action up to and including permanent removal from the Project Site.

6.0 RETURN-TO-WORK/MODIFIED WORK PROGRAM

Enrolled Trade Partners and their lower tier Trade Partner(s) shall implement a "Return-to-Work/Modified Work Program" (RTW/MWP) for any employees injured at the Project. Enrolled Trade Partners shall initiate the RTW/MWP when the injured employee is released by the medical provider for modified duty whether or not a job is immediately available and whether or not such work is available on this Project, except as otherwise authorized by the Contractor. The RTW/MWP process includes, but shall not be limited to, the following:

- ❖ The Enrolled Trade Partner shall communicate to the injured employee and treating physician the RTW/MWP program and facilitate the RTW/MWP process with the treating physician and the injured employee.
- ❖ The RTW/MWP assignments must comply with all medical limitations defined by the treating physician so that new, additional, or aggravation injuries do not occur.

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- ❖ The Enrolled Trade Partner must provide the Contractor copies of the injured employee's return to work notes, including description of the duty assignment, length of the modified duty, and restrictions.
- ❖ Such modified duty shall be at the employee's pre-injury wage rate, except as authorized by the Contractor or as otherwise controlled by statute.

Failure to participate in the RTW/MWP will result in a liquidated damage assessment to the Enrolled Trade Partner of \$1,500 weekly until such time as the injured worker is returned to work in either a modified duty position or full duty. The Enrolled Trade Partner agrees that such assessment will be issued through a unilateral deductive change order or other means approved by the Contractor.

- A. Trade Partner Enrollment Application
- B. Estimated Exposure Worksheet
- C. Assignment and Transfer Form
- D. Certificate of Insurance – Enrolled
- E. Certificate of Insurance – Non-enrolled
- F. Payroll Reporting Form
- G. Notice of Completion
- H. Workers' Compensation Report of Injury
- I. Claim Reporting Form

NOTE: Online enrollment is available. A link, along with enrollment instructions, will be provided by the DCIP Administrator. If online enrollment is impractical, a Trade Partner Enrollment Application, Estimated Exposure Worksheet, and Assignment & Transfer Form must be emailed to the DCIP Administrator.

**Dunn Controlled Insurance Program
Trade Partner Enrollment Application – WC/GL 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 (J.E. 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: _____

This form must be e-mailed to:

**LOCKTON COMPANIES, LLC
Attn: Dunn DCIP Administrator
444 West 47th Street, Suite 900
Kansas City, MO 64112-1906
Phone: 816-960-9000
E-mail: WrapUpCIPCoordinators@Lockton.com**

Estimated Exposure Worksheet

Company Name: _____

Who holds your Contract (JE Dunn or other)? Specify: _____

Bid Package: _____

Trade Partner EMR: _____

Project/Phase Name: _____ Contract Value: \$ _____

Payroll Information

Labor Classification	WC Class Code	Estimated Man-Hours	Estimated Payroll

Assignment and Transfer

Agreement

The undersigned hereby warrants the accuracy of payroll/contract information provided and agree that the Contractor, its insurance representative, and/or the DCIP Insurer may audit the Trade Partner's records to confirm the accuracy of payrolls/contract amount.

Contract price and assignment of return premium: The Contractor, at its sole expense, will furnish the DCIP coverages listed for the benefit of all enrolled Trade Partners. In consideration of the Contractor providing DCIP coverages, the Trade Partner and its lower tier Trade Partners will:

- Bid contracts without General Liability and Workers' Compensation insurance costs included.
- Assign to the Contractor all return premiums, dividends, refunds, discounts, and/or other deducts due under the DCIP policies.

Signed by: _____ Date Prepared: _____

Printed: _____

Trade Partner Name: _____

Complete the form using estimated payroll/Contract amount and man-hours for the Contract you have been awarded. **If you have been awarded more than one Contract, a separate worksheet is required for each Contract.**

If you have any questions concerning the completion of this form, please contact your insurance representative or the assigned Lockton DCIP coordinator.

**Payroll Reporting Form
Dunn Controlled Insurance Program**

I. General Information

Company Name: _____

Project/Phase Name: _____

Who holds your Contract (J.E. Dunn or other)? Specify: _____

Period That You Are Reporting Payroll For:

(Example: 06/01/08 – 06/30/08)

Month	Day	Year	-	Month	Day	Year

NO PAYROLL TO REPORT FOR THIS PERIOD

II. Payroll Information

WC Description	WC Code			Number of Employees
		Hours	Payroll	
TOTALS:				

***NOTE: Overtime should be included at the normal hourly rate.
DO NOT INCLUDE EXTRA WAGES PAID FOR O.T.**

Payroll Verified by: _____ Date: _____
Controller or Company Officer

Does payroll include leased employees? Yes No

Is this your FINAL payroll report? Yes** No

****NOTE: If answered yes, a NOTICE OF COMPLETION FORM must be sent immediately to:**

**LOCKTON COMPANIES, LLC
Attn: Dunn DCIP Administrator
444 West 47th Street, Suite 900
Kansas City, MO 64112-1906
Phone: 816-960-9000
E-mail: WrapUpCIPCoordinators@Lockton.com**

Please list any Lower Tier Trade Partners performing work on the contact listed above:

J.E. Dunn DCIP Administrator and/or the insurance company may audit payroll.

**Notice of Completion
Dunn Controlled Insurance Program**

I. Completed Work

Company Name: _____

Project/Phase Name: _____

Who holds your Contract (J.E. Dunn or other)? Specify: _____

II. Trade Partners

Please Provide Names of Lower Tier Trade Partners That May Also Be Completing Work (attach additional pages if necessary):

III. Contract Information

Final Contract Value: \$_____ Other Contracts at This Jobsite: Yes No

Completion Date: ____/____/____ Final Onsite Total: \$_____ Payroll _____ Man-hours

Cumulative Payroll Summary (attach additional pages if necessary)

Class Code: _____	Payroll: \$_____	Class Code: _____	Payroll: \$_____
Class Code: _____	Payroll: \$_____	Class Code: _____	Payroll: \$_____
Class Code: _____	Payroll: \$_____	Class Code: _____	Payroll: \$_____
			TOTAL: \$_____

Each Contract awarded on this jobsite will require a separate Notice of Completion form.

Final Audit Lockton Companies, LLC, or a designated "insurer" representative will contact your audit personnel identified in your Contractor Application to arrange for a final payroll audit.

Record Retention All payroll records related to the DCIP must be retained for a period not less than three years from completion of your Work.

Note—: Any Trade Partner whose insurance as provided by the DCIP has been terminated and who intends to return to the Project Site to perform warranty or additional work must confirm with the Contractor the appropriate insurance approach before entering the Project Site.

Print Name: _____

Signature: _____ **Title:** _____ **Date:** _____
Controller or Company Officer

This form must be e-mailed to:

**LOCKTON COMPANIES, LLC
Attn: Dunn DCIP Administrator
444 West 47th Street, Suite 900
Kansas City, MO 64112-1906
Phone: 816-960-9000
E-mail: WrapUpCIPCoordinators@Lockton.com**

WORKERS' COMPENSATION REPORT OF INJURY

Company/branch office reporting injury: _____

Project Name: _____ Project Number: _____

Project Address: _____ City/State/Zip: _____

Injured Employee: _____	Social Security #: _____
Address: _____	City: _____ State: _____ Zip: _____
Phone: _____ Sex: _____	Marital Status: _____ DOB: _____
Occupation: _____	Date of Hire: _____ Wage: _____
Employer: _____	Employer Address: _____
Employer Phone: _____	Employer Contact: _____

Date of Injury: _____ Time of Injury: _____ a.m./ p.m.

Type of Injury: _____ Body Part: _____

Accident Reported to: _____ Date and Time Reported: _____

Yes No Was Employee Drug Tested & Orientated? Date of Drug Test _____ Date of Orientation: _____

Yes No Did employee leave site for treatment? Date _____ Time: _____

Yes No Did employee return to work after treatment? Date _____ Time: _____

Treatment (check one): Report Only/First Aid (on-site) Clinic Hospital Other: _____

Location of Accident: _____

What was employee doing when injured? _____

Describe (in detail) how accident occurred: _____

List Superintendents/Foreman at time of injury: _____

What steps have been taken to prevent accident in the future? _____

Yes No Was the employee using any equipment/materials at time of injury?
If so, list items: _____

Yes No Was there a defect in equipment?
If so, what? _____

Yes No Was employee utilizing safety equipment?
If so, list items (or check): _____
 Hard hat Eye protection Gloves Safety harness Respirator

Yes No Were there any witnesses to the accident?
If so, list: _____
Name Phone #

Additional Comments: _____

Date: _____ Supervisor's Signature: _____

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
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