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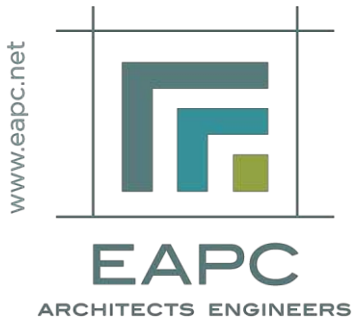
TURTLE MOUNTAIN COMMUNITY COLLEGE
CONCRETE PAVEMENT REPLACEMENT

BELCOURT, NORTH DAKOTA

DATE	June 12, 2026
NUMBER	20232951

SET NUMBER	
	All prints and specifications must be returned to EAPC promptly after Bid Opening.

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TURTLE MOUNTAIN COMMUNITY COLLEGE
CONCRETE PAVEMENT REPLACEMENT

BELCOURT, NORTH DAKOTA

DESIGN PROFESSIONALS OF RECORD

Architect:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Architect under the laws of the State of North Dakota.

Signature: 

Date: 06/12/2026 REG. NO.: 1881

Gloria Larsgaard
Phone: 701.839.4547
Email: gloria.larsgaard@eapc.net

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SECTION 00 0200 – INVITATION TO BID

PROJECT. Turtle Mountain Community College Concrete Pavement Replacement

BIDS CLOSE. Thursday, July 9th, 2026 at 11:00AM

PROJECT #. 20232951

DATE OF ISSUE. June 12th, 2026

BY. EAPC Architects Engineers
2080 36th Ave SW, Suite 210
Minot, ND 58701

PHONE: (701) 839-4547

OUTLINE OF PROJECT. Replacement of exterior concrete pavement, asphalt pavement, and curbs as well as drainage improvements in various locations on the site of the Turtle Mountain Community College.

TYPE OF BIDS. Single bid will be received for all portions of the work. The successful bidder will be the single Prime Contractor for the Project.

THE OWNER. Turtle Mountain Community College
10145 BIA Road 7, PO Box 340
Belcourt, ND 58316

BID PLACE. Turtle Mountain Community College
10145 BIA Road 7, PO Box 340
Belcourt, ND 58316

Bids received after the designated time will not be accepted. All interested parties are invited to attend. Bids will be opened and publicly read aloud. It is the bidders responsibility to see that mailed or delivered bids are in the hands of the Owner prior to the time of the bid opening.

OBTAINING DOCUMENTS. Drawings and Specifications may be examined at the Architect/Engineer's office, and the Owner's office at the address shown above and:

QuestCDN (www.questcdn.com)

Dodge Plan Room and SCAN in Minneapolis.

ConstructConnect

Minnesota Builders Exchanges: Minnesota Builders Exchange in Minneapolis

North Dakota Builders Exchanges: Bismarck, Fargo, Grand Forks, Minot, Williston

South Dakota Builders Exchanges: Aberdeen, Plains Builders in Sioux Falls, Rapid City, Sioux Falls

Montana Builders Exchange: Billings

Wyoming Builders Exchange: Gillette

If Contractor receives his bidding documents from a plans exchange, it is the Contractors responsibility to contact EAPC Architects Engineers to be added to the plan holders list.

Complete digital project bidding documents are available at www.questcdn.com. You may download the digital plan documents for \$22.00 by inputting Quest project # **10239214** on the website's Project Search page. Please contact QuestCDN.com at 952-233-1632 or info@questcdn.com for assistance in free membership registration, downloading, and working with this digital project information.

An optional paper set of project documents is also available for a refundable price of \$50 per set from EAPC Architects Engineers. Please allow 2 days for printing.

Partial or complete sets of prints and specifications may be obtained from EAPC by other than the above. The sets or partial sets will be distributed upon receipt of payment for the information charged at the current reproduction rate. None of this payment will be refunded. Completeness and adequacy of the list of documents requested shall be the responsibility of the person making the request.

BID SECURITY. Bid Security in the amount of five (5%) percent of the Bid including all add alternates, must accompany each Bid in accord with the Instructions to Bidders 00 1000.7. Cash, Bidders Bond, cashier's checks

NORTH DAKOTA LAW. All bidders must be licensed for the highest amount of their bids, as provided by North Dakota Century Code Section 43-07-07; and no bid will be read or considered which does not fully comply with the above provisions as to bond and licenses, and any bid deficient in these respects submitted will be re-sealed and returned to the bidder immediately.

PREBID MEETING. There will be a meeting of prospective bidders at 10:30 AM June 25th, 2026 at the front entrance of the Turtle Mountain College. All those with questions for the Owner and A/E are invited to attend.

THE OWNER reserves the right to waive irregularities, to reject Bids and to hold all Bids for a period of 30 days after the date fixed for the opening thereof.

By order of: Kevin Morin, Facility Manager.

END OF SECTION 00 0200

DOCUMENT 00 1000 - INSTRUCTIONS TO BIDDERS

PART 1 - GENERAL

1.1 INSTRUCTIONS TO BIDDERS

- A. Instructions to Bidders for Project consist of the following:
 - 1. Document 00 0200 – Invitation to Bid
 - 2. Document 00 1000 – Instructions to Bidders
 - 3. AIA Document A701-2018, "Instructions to Bidders," a copy of which is bound in this Project Manual.
 - 4. Document 00 1001 – “Supplementary Instructions to Bidders” that modify and add to the requirements of AIA Document A701-2018, Instructions to Bidders.
 - 5. RD Instruction 1942-A, Guide 27 Attachment 2.
 - 6. Template for Construction Sign
- B. The following sections append AIA Document A701, "Instructions to Bidders." Where a portion of the Instructions to Bidders is modified or deleted by these Instructions to Bidders, unaltered portions of the AIA Document A701 shall remain in effect.
- C. Where instructions in this Section conflict with those in Document 00 2000 - Invitation to Bid, instructions in this Document, as published or amended by Addendum, shall govern.
- D. Where instructions in this Section conflict with those in RD Instruction 1942-A, Guide 27 Attachment 2, The RD instructions as published or amended by Addendum, shall govern

PART 2 - PRE-BID INFORMATION

2.1 PREBID MEETING

- A. A prebid meeting is scheduled for 10:30 AM local time on the 25th day of June, 2026 at the front entrance of the Turtle Mountain Community College.
- B. General Contract and subcontract and major subcontract Bidders are invited to attend.
- C. Representatives of Architect/Engineer will attend.
- D. Attendance by prospective Bidders is not a mandatory prerequisite for submitting a Bid for this project.
- E. Minutes:
 - 1. Summarized minutes of this meeting will be circulated to known Bidders.
 - 2. These minutes will not form part of Contract Documents.

- F. Information relevant to Bidding Documents will be issued by Addendum. Any other discussion not included in the Addendum will not be considered official or part of the Bidding Documents.

2.2 BID SECURITY

- A. Bids shall be accompanied by Bid security as follows:
 - 1. Bid bond of a sum no less than 5 percent of the Bid Sum on AIA A310 - Bid Bond or on standard surety company form.

2.3 CONTRACT TIME

- A. Identification:
 - 1. Identify Contract Time in Bid Form. It is the Owner's intent to perform work in the west entrance first. Work can start this year and complete next year or be performed next spring.
 - 2. Completion date in Agreement shall be Contract Time added to commencement date.
- B. Perform Work within time indicated in Document 00 7000 – General Conditions.
- C. Bidder, in submitting an offer, accepts Contract Time period stated for performing Work.
- D. Time is of Essence:
 - 1. Owner requires Work of this Contract be completed as quickly as possible.
- E. Consideration will be given to time of completion when reviewing submitted Bids.

PART 3 - EXECUTION (Not Used)

Instructions to Bidders

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

«Turtle Mountain Community College Concrete Pavement Replacement»
«10145 BIA Road 7
Belcourt, North Dakota»
« »

THE OWNER:
(Name, legal status, address, and other information)

«Turtle Mountain Community College»« »
«10145 BIA Road 7
P. O. Box 340
Belcourt, ND 58316»
«Telephone Number: (701) 477-7862»
«Fax Number: (701) 477-7892»

THE ARCHITECT:
(Name, legal status, address, and other information)

«Engineers-Architects, P.C. (herein known as EAPC Architects Engineers)»« »
«2080 36th Ave SW, Suite 210
Minot, ND 58701»
«Telephone Number: (701) 839-4547»

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ADDITIONS AND DELETIONS:
The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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.

FEDERAL, STATE, AND LOCAL LAWS MAY IMPOSE REQUIREMENTS ON PUBLIC PROCUREMENT CONTRACTS. CONSULT LOCAL AUTHORITIES OR AN ATTORNEY TO VERIFY REQUIREMENTS APPLICABLE TO THIS PROCUREMENT BEFORE COMPLETING THIS FORM.

It is intended that AIA Document G612™–2017, Owner's Instructions to the Architect, Parts A and B will be completed prior to using this document.

ARTICLE 1 DEFINITIONS

§ 1.1 Bidding Documents include the Bidding Requirements and the Proposed Contract Documents. The Bidding Requirements consist of the advertisement or invitation to bid, Instructions to Bidders, supplementary instructions to bidders, the bid form, and any other bidding forms. The Proposed Contract Documents consist of the unexecuted form of Agreement between the Owner and Contractor and that Agreement's Exhibits, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, all Addenda, and all other documents enumerated in Article 8 of these Instructions.

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, or in other Proposed Contract Documents apply to the Bidding Documents.

§ 1.3 Addenda are written or graphic instruments issued by the Architect, which, by additions, deletions, clarifications, or corrections, modify or interpret the Bidding Documents.

§ 1.4 A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents, to which Work may be added or deleted by sums stated in Alternate Bids.

§ 1.6 An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from, or that does not change, the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

§ 1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment, or services, or a portion of the Work, as described in the Bidding Documents.

§ 1.8 A Bidder is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.

§ 1.9 A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment, or labor for a portion of the Work.

ARTICLE 2 BIDDER'S REPRESENTATIONS

§ 2.1 By submitting a Bid, the Bidder represents that:

- .1 the Bidder has read and understands the Bidding Documents;
- .2 the Bidder understands how the Bidding Documents relate to other portions of the Project, if any, being bid concurrently or presently under construction;
- .3 the Bid complies with the Bidding Documents;
- .4 the Bidder has visited the site, become familiar with local conditions under which the Work is to be performed, and has correlated the Bidder's observations with the requirements of the Proposed Contract Documents;
- .5 the Bid is based upon the materials, equipment, and systems required by the Bidding Documents without exception; and
- .6 the Bidder has read and understands the provisions for liquidated damages, if any, set forth in the form of Agreement between the Owner and Contractor.

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 Distribution

§ 3.1.1 Bidders shall obtain complete Bidding Documents, as indicated below, from the issuing office designated in the advertisement or invitation to bid, for the deposit sum, if any, stated therein.

(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall obtain Bidding Documents.)

«Email, Builders Exchanges, QuestCDN, eapc.net »

§ 3.1.2 Any required deposit shall be refunded to Bidders who submit a bona fide Bid and return the paper Bidding Documents in good condition within ten days after receipt of Bids. The cost to replace missing or damaged paper documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the paper Bidding Documents, and the Bidder's deposit will be refunded.

§ 3.1.3 Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the advertisement or invitation to bid, or in supplementary instructions to bidders.

§ 3.1.4 Bidders shall use complete Bidding Documents in preparing Bids. Neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete Bidding Documents.

§ 3.1.5 The Bidding Documents will be available for the sole purpose of obtaining Bids on the Work. No license or grant of use is conferred by distribution of the Bidding Documents.

§ 3.2 Modification or Interpretation of Bidding Documents

§ 3.2.1 The Bidder shall carefully study the Bidding Documents, shall examine the site and local conditions, and shall notify the Architect of errors, inconsistencies, or ambiguities discovered and request clarification or interpretation pursuant to Section 3.2.2.

§ 3.2.2 Requests for clarification or interpretation of the Bidding Documents shall be submitted by the Bidder in writing and shall be received by the Architect at least seven days prior to the date for receipt of Bids.
(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall submit requests for clarification and interpretation.)

«Requests can be sent by email to gloria.larsgaard@eapc.net »

§ 3.2.3 Modifications and interpretations of the Bidding Documents shall be made by Addendum. Modifications and interpretations of the Bidding Documents made in any other manner shall not be binding, and Bidders shall not rely upon them.

§ 3.3 Substitutions

§ 3.3.1 The materials, products, and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance, and quality to be met by any proposed substitution.

§ 3.3.2 Substitution Process

§ 3.3.2.1 Written requests for substitutions shall be received by the Architect at least ten days prior to the date for receipt of Bids. Requests shall be submitted in the same manner as that established for submitting clarifications and interpretations in Section 3.2.2.

§ 3.3.2.2 Bidders shall submit substitution requests on a Substitution Request Form if one is provided in the Bidding Documents.

§ 3.3.2.3 If a Substitution Request Form is not provided, requests shall include (1) the name of the material or equipment specified in the Bidding Documents; (2) the reason for the requested substitution; (3) a complete description of the proposed substitution including the name of the material or equipment proposed as the substitute, performance and test data, and relevant drawings; and (4) any other information necessary for an evaluation. The request shall include a statement setting forth changes in other materials, equipment, or other portions of the Work, including changes in the work of other contracts or the impact on any Project Certifications (such as LEED), that will result from incorporation of the proposed substitution.

§ 3.3.3 The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.4 If the Architect approves a proposed substitution prior to receipt of Bids, such approval shall be set forth in an Addendum. Approvals made in any other manner shall not be binding, and Bidders shall not rely upon them.

§ 3.3.5 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

§ 3.4 Addenda

§ 3.4.1 Addenda will be transmitted to Bidders known by the issuing office to have received complete Bidding Documents.

(Indicate how, such as by email, website, host site/platform, paper copy, or other method Addenda will be transmitted.)

«Email, eapc.net, QuestCDN, Builders Exchanges »

§ 3.4.2 Addenda will be available where Bidding Documents are on file.

§ 3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids, except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

§ 3.4.4 Prior to submitting a Bid, each Bidder shall ascertain that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 Preparation of Bids

§ 4.1.1 Bids shall be submitted on the forms included with or identified in the Bidding Documents.

§ 4.1.2 All blanks on the bid form shall be legibly executed. Paper bid forms shall be executed in a non-erasable medium.

§ 4.1.3 Sums shall be expressed in both words and numbers, unless noted otherwise on the bid form. In case of discrepancy, the amount entered in words shall govern.

§ 4.1.4 Edits to entries made on paper bid forms must be initialed by the signer of the Bid.

§ 4.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter “No Change” or as required by the bid form.

§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder’s refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall neither make additional stipulations on the bid form nor qualify the Bid in any other manner.

§ 4.1.7 Each copy of the Bid shall state the legal name and legal status of the Bidder. As part of the documentation submitted with the Bid, the Bidder shall provide evidence of its legal authority to perform the Work in the jurisdiction where the Project is located. Each copy of the Bid shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further name the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached, certifying the agent’s authority to bind the Bidder.

§ 4.1.8 A Bidder shall incur all costs associated with the preparation of its Bid.

§ 4.2 Bid Security

§ 4.2.1 Each Bid shall be accompanied by the following bid security:
(Insert the form and amount of bid security.)

«5% »

§ 4.2.2 The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and shall, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty. In the event the Owner fails to comply with Section 6.2, the amount of the bid security shall not be forfeited to the Owner.

§ 4.2.3 If a surety bond is required as bid security, it shall be written on AIA Document A310™, Bid Bond, unless otherwise provided in the Bidding Documents. The attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of an acceptable power of attorney. The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 4.2.4 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until (a) the Contract has been executed and bonds, if required, have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn; or (c) all Bids have been rejected. However, if no Contract has been awarded or a Bidder has not been notified of the acceptance of its Bid, a Bidder may, beginning« »days after the opening of Bids, withdraw its Bid and

request the return of its bid security.

§ 4.3 Submission of Bids

§ 4.3.1 A Bidder shall submit its Bid as indicated below:

(Indicate how, such as by website, host site/platform, paper copy, or other method Bidders shall submit their Bid.)

«As indicated in the Invitation to Bid and Bid Form. »

§ 4.3.2 Paper copies of the Bid, the bid security, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address, and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

§ 4.3.3 Bids shall be submitted by the date and time and at the place indicated in the invitation to bid. Bids submitted after the date and time for receipt of Bids, or at an incorrect place, will not be accepted.

§ 4.3.4 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

§ 4.3.5 A Bid submitted by any method other than as provided in this Section 4.3 will not be accepted.

§ 4.4 Modification or Withdrawal of Bid

§ 4.4.1 Prior to the date and time designated for receipt of Bids, a Bidder may submit a new Bid to replace a Bid previously submitted, or withdraw its Bid entirely, by notice to the party designated to receive the Bids. Such notice shall be received and duly recorded by the receiving party on or before the date and time set for receipt of Bids. The receiving party shall verify that replaced or withdrawn Bids are removed from the other submitted Bids and not considered. Notice of submission of a replacement Bid or withdrawal of a Bid shall be worded so as not to reveal the amount of the original Bid.

§ 4.4.2 Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids in the same format as that established in Section 4.3, provided they fully conform with these Instructions to Bidders. Bid security shall be in an amount sufficient for the Bid as resubmitted.

§ 4.4.3 After the date and time designated for receipt of Bids, a Bidder who discovers that it made a clerical error in its Bid shall notify the Architect of such error within two days, or pursuant to a timeframe specified by the law of the jurisdiction where the Project is located, requesting withdrawal of its Bid. Upon providing evidence of such error to the reasonable satisfaction of the Architect, the Bid shall be withdrawn and not resubmitted. If a Bid is withdrawn pursuant to this Section 4.4.3, the bid security will be attended to as follows:

(State the terms and conditions, such as Bid rank, for returning or retaining the bid security.)

«The amount of the bid security shall be forfeited to the owner. »

ARTICLE 5 CONSIDERATION OF BIDS

§ 5.1 Opening of Bids

If stipulated in an advertisement or invitation to bid, or when otherwise required by law, Bids properly identified and received within the specified time limits will be publicly opened and read aloud. A summary of the Bids may be made available to Bidders.

§ 5.2 Rejection of Bids

Unless otherwise prohibited by law, the Owner shall have the right to reject any or all Bids.

§ 5.3 Acceptance of Bid (Award)

§ 5.3.1 It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents. Unless otherwise prohibited by law, the Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's best interests.

§ 5.3.2 Unless otherwise prohibited by law, the Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the lowest responsive

and responsible Bidder on the basis of the sum of the Base Bid and Alternates accepted.

ARTICLE 6 POST-BID INFORMATION

§ 6.1 Contractor's Qualification Statement

Bidders to whom award of a Contract is under consideration shall submit to the Architect, upon request and within the timeframe specified by the Architect, a properly executed AIA Document A305™, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted for this Bid.

§ 6.2 Owner's Financial Capability

A Bidder to whom award of a Contract is under consideration may request in writing, fourteen days prior to the expiration of the time for withdrawal of Bids, that the Owner furnish to the Bidder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. The Owner shall then furnish such reasonable evidence to the Bidder no later than seven days prior to the expiration of the time for withdrawal of Bids. Unless such reasonable evidence is furnished within the allotted time, the Bidder will not be required to execute the Agreement between the Owner and Contractor.

§ 6.3 Submittals

§ 6.3.1 After notification of selection for the award of the Contract, the Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, submit in writing to the Owner through the Architect:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the principal products and systems proposed for the Work and the manufacturers and suppliers of each; and
- .3 names of 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.

§ 6.3.2 The Bidder will be required to establish to the satisfaction of the Architect and Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

§ 6.3.3 Prior to the execution of the Contract, the Architect will notify the Bidder if either the Owner or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, withdraw the Bid or submit an acceptable substitute person or entity. The Bidder may also submit any required adjustment in the Base Bid or Alternate Bid to account for the difference in cost occasioned by such substitution. The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

§ 6.3.4 Persons and entities proposed by the Bidder and to whom the Owner and Architect 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 of the Owner and Architect.

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

§ 7.1 Bond Requirements

§ 7.1.1 If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

§ 7.1.3 The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 7.1.4 Unless otherwise indicated below, the Penal Sum of the Payment and Performance Bonds shall be the amount of the Contract Sum.

(If Payment or Performance Bonds are to be in an amount other than 100% of the Contract Sum, indicate the dollar amount or percentage of the Contract Sum.)

« »

§ 7.2 Time of Delivery and Form of Bonds

§ 7.2.1 The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. If the Work is to commence sooner in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

§ 7.2.2 Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond.

§ 7.2.3 The bonds shall be dated on or after the date of the Contract.

§ 7.2.4 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix to the bond a certified and current copy of the power of attorney.

ARTICLE 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS

§ 8.1 Copies of the proposed Contract Documents have been made available to the Bidder and consist of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor, unless otherwise stated below.
(Insert the complete AIA Document number, including year, and Document title.)

« See Section 00 3000 - Forms »
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds, unless otherwise stated below.
(Insert the complete AIA Document number, including year, and Document title.)

« See Section 00 3000 - Forms »
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, unless otherwise stated below.
(Insert the complete AIA Document number, including year, and Document title.)

« See Section 00 3000 - Forms »
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013.)

« N/A »
- .5 Drawings
C100 COVER SHEET
C200 GENERAL NOTES & LEGEND
C300.1 SURVEY OVERLAY & DEMOLITION PLAN (EAST)
C300.2 SURVEY OVERLAY & DEMOLITION PLAN (WEST)
C300.3 SURVEY OVERLAY & DEMOLITION PLAN (CENTRAL)
C300.4 SURVEY OVERLAY & DEMOLITION PLAN (NORTH)
C400 OVERALL SITE PLAN
C400.1 OVERALL SITE PLAN (EAST)
C400.2 OVERALL SITE PLAN (WEST)
C400.3 OVERALL SITE PLAN (CENTRAL)
C400.4 OVERALL SITE PLAN (NORTH)
C500.1 GRADING PLAN (EAST)
C500.2 GRADING PLAN (WEST)
C500.3 GRADING PLAN (CENTRAL)
C500.4 GRADING PLAN (NORTH)
C600.1 EROSION & SEDIMENT CONTROL PLAN (EAST)
C600.2 EROSION & SEDIMENT CONTROL PLAN (WEST)
C600.3 EROSION & SEDIMENT CONTROL PLAN (CENTRAL)

C600.4 EROSION & SEDIMENT CONTROL PLAN (NORTH)
 C600.5 SWPPP NARRATIVE
 C600.6 SWPPP NOTES & DETAILS
 C700 DETAILS

Number	Title	Date
--------	-------	------

.6 Specifications

DIVISION 00 - PROCUREMENT AND CONTRACTING REQUIREMENTS

00 0200	INVITATION TO BID
00 1000	INSTRUCTION TO BIDDERS
00 1001	SUPPLEMENTARY INSTRUCTIONS TO BIDDERS
00 3000	FORMS
00 7000	AIA DOCUMENT A201, GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION
	ARTICLE 16 – SUPPLEMENTARY CONDITIONS
00 8000	SPECIAL CONDITIONS – TERO Regulations

DIVISION 01 - GENERAL REQUIREMENTS

01 1000	SUMMARY
01 2200	UNIT PRICES
01 2500	SUBSTITUTION PROCEDURES
01 2600	CONTRACT MODIFICATION PROCEDURES
01 2900	PAYMENT PROCEDURES
01 3100	PROJECT MANAGEMENT AND COORDINATION
01 3200	CONSTRUCTION PROGRESS DOCUMENTATION
01 3300	SUBMITTAL PROCEDURES
01 4000	QUALITY REQUIREMENTS
01 5000	TEMPORARY FACILITIES AND CONTROLS
01 6000	PRODUCT REQUIREMENTS
01 7300	EXECUTION
01 7700	CLOSEOUT PROCEDURES
01 7839	PROJECT RECORD DOCUMENTS

Section	Title	Date	Pages
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« »

.7 Addenda:

Number	Date	Pages
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«To be determined »

.8 Other Exhibits:

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

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017.)

« »

The Sustainability Plan:

Title	Date	Pages
« »		

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
«Article 9 »	Supplementary Instructions to Bidders		
Article A.5	Supplementary Conditions to A101-2017 Exhibit A		
Article 16	Article 16-Supplementary Conditions		

9 Other documents listed below:

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

« »

Bid Envelope - Instructions Reminder

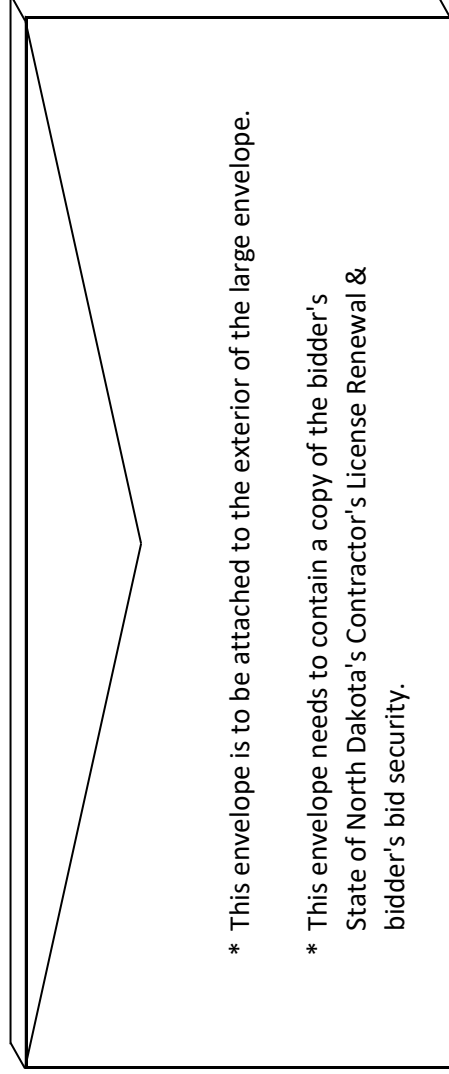
When submitting your bid, the bid envelope must contain the information indicated in the illustration below.

Contractor's Name
Address
Address

Project Name:
EAPC Project

Submitting Bid For:

Acknowledgment of Receipt of Addenda (list addendum #'s)



* This large envelope is to contain two copies of the bid form.

ARTICLE 9. SUPPLEMENTARY INSTRUCTIONS TO BIDDERS

9.1 SUPPLEMENTS

These Instructions to Bidders (AIA Document A701 - 2018, 8 Articles on 8 pages) are hereby made part of the Contract Documents. This Article 9 contains changes and additions to the AIA A701, cross referenced to the original Article numbers in AIA A701 - 2018. Where any part of AIA A701 - 2018 is not modified or voided by this Article 9 or Division 1 Specifications Sections, the unaltered part remains in effect.

ARTICLE 1 DEFINITIONS

1.3 Change 'Architect' to read 'Architect and/or Engineer.'

1.7 Add '...or in the proposed Contract Documents.' to the last sentence.

1.10 Add paragraph: Local Conditions refers to the location, accessibility, general character and extent of the site, existing work or work being performed by others within or adjacent to the site, the availability of labor and utilities, and the conditions that might occur because of weather.

ARTICLE 2. BIDDER'S REPRESENTATIONS

Add to 2.1:

- .7** The Bidder has investigated all required fees, permits, and regulatory requirements of authorities having jurisdiction and has properly included in the submitted Bid the cost of such fees, permits, and requirements not otherwise indicated as provided by Owner.
- .8** The Bidder has incorporated into the Bid adequate sums for work performed by installers whose qualifications meet those indicated in the Procurement and Contracting Documents.

ARTICLE 3 BIDDING DOCUMENTS

3.3 SUBSTITUTIONS

Add to 3.3.1:

3.3.1.1 The phrase "equal products by _____ may be Bid" does not relieve the Contractor of the responsibility to obtain written approval from the Architect/ Engineer of the particular catalog item before purchase. A substitute product listed by Addendum as an 'equal' may be rejected for use in the project if subsequent information reveals it does not meet specified requirements.

3.3.1.2 The Architect's/Engineer's approval of an item for a previous project does not constitute approval for this Project.

SUBSTITUTION PROCESS

Add to 3.3.2.1:

- a. Where Bidding Documents stipulate particular products, substitution requests will be considered by Architect/Engineer up to seven (7) days before receipt of Bids.

3.3.2.2 Replace the text with: Requests for substitutions shall be made in writing using the Substitution Request Form as provided in Section 00 3000 – Forms, or other document with the same text. Requests for substitution shall comply with substitution request submittal requirements as specified in Section 01 6000 - Product Requirements, and include information required by Section 3.3.2.3.

ARTICLE 4 BIDDING PROCEDURES

4.1 PREPARATION OF BIDS

Add to 4.1.6:

4.1.6.1 A Bidder who wishes to give a single Bid, whether for one contract or a combination of contracts, shall enter the name of the contract(s) in the appropriate space on the Bid form.

4.1.9 Add paragraph: Where there is a blank on the Bid form designated for major sub-bidders (such as mechanical, electrical, food service, elevator or other designated major sub-bidders) each Prime Bidder including such sub-bids shall name the sub-bidder and/or manufacturer used in his Bid

4.1.10 Add paragraph: The Bid shall include unit prices when called for by the Contract Documents. The Owner may elect to consider unit prices in the determination of award. Unit prices will be incorporated into the Contract for Construction.

4.1.11 Add paragraph: Bids shall include sales and use taxes as required by Law. Reimbursement of sales and use taxes, if any, shall be applied for by Owner for the sole benefit of Owner.

4.2 BID SECURITY

4.2.1 Replace the text with: Each Bid shall be accompanied by bid security if required by the Instructions to Bidders.

4.2.3 Change text from ‘...AIA Document A310, Bid Bond...’ to read ‘...AIA Document A310, Bid Bond, or on another paper document containing the same text...’

4.2.4 Delete the sentence ‘However, if no Contract...bid security.’

4.3 SUBMISSION OF BIDS

Replace **4.3.1** and **4.3.2** with the following:

4.3.1 BID SUBMISSION (FOR PROJECTS LOCATED IN NORTH DAKOTA)

- 1) All bids shall have on the outside of the sealed envelope containing the bid, the following information:
 - a) Name of the person, firm or corporation submitting the bid.
 - b) Type of proposal.
 - c) Name of Project.
 - d) Return Address.

- 2) Any bid submitted without this information on the envelope will not be considered and will be returned unopened to the bidder.

Only firms holding a North Dakota State Contractor's License of proper classification will be eligible to submit bids over \$500.00. Licenses are obtained through the Office of the Secretary of State, Bismarck, North Dakota. According to the requirements of the law, no license may be issued to an applicant until the expiration of ten days after filing of the application. A Contractor must be the holder of such license at least ten days prior to date set to receive bids, to become a qualified bidder, and it must be renewed for the current year. Sub-contractors shall meet the requirements of Section 43.07 of the North Dakota Century Code.

- 3) If there is North Dakota local or state tax money in the project, the bid security and a copy of the Contractor's License or Certificate of License Renewal issued by the Secretary of State (whichever is most recent) shall be in a separate envelope fastened to the envelope containing the bid. All copies of the Bid, the bid security on any other projects, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. If the Bid is sent by mail, the sealed envelope or envelopes shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED FOR _____ CONTRACT" on the face thereof. Oral, telephonic or telegraphic Bids are invalid and will not receive consideration.
- 4) Bids may be hand carried to the place of the bid opening just before the opening, or they may be delivered in advance of that time to the address under "OWNER" in the Invitation to Bid.
- 5) Each Contractor shall include in his bid the paying of all North Dakota sales taxes, use taxes, gasoline taxes, and vehicle license fees applicable to this work. Either the Contractor or his suppliers shall pay the Sales or Use Tax on materials used. See the Additional Conditions Section 00 7000-3.6.1.
- 6) The Contractor must submit for the State Tax Commissioner a certificate of income tax clearance before the Owner can enter into a contract. Before the Contractor enters into a contract with a sub-contractor, he shall obtain from him such a certificate.
- 7) Modifications of the bid by email, phone text, or telephone will not be considered.

4.6 Add paragraph: SUBCONTRACTORS, SUPPLIERS, AND MANUFACTURERS LIST BID SUPPLEMENT

Provide list of major subcontractors, suppliers, and manufacturers furnishing or installing products in a form acceptable to the Architect or Owner, no later than **seven** business days following Architect's request. Include those subcontractors, suppliers, and manufacturers providing work totaling threepercent or more of the Bid amount. Do not change subcontractors, suppliers, and manufacturers from those submitted without approval of Architect.

ARTICLE 5 CONSIDERATION OF BIDS

5.2 REJECTION OF BIDS

5.2.1 Add paragraph: Owner reserves the right to reject a Bid based on Owner's and Architect's evaluation of qualification information submitted following opening of Bids. Owner's evaluation of the Bidder's qualifications will include: status of licensure and record of compliance with licensing requirements, record of quality of completed work, record of Project completion and ability to complete, record of financial management including financial resources available to complete Project and record of timely payment of obligations, record of Project site management including compliance with requirements of authorities having jurisdiction, record of and number of current claims and disputes and the status of their resolution, and qualifications of the Bidder's proposed Project staff and proposed subcontractors.

5.2.2 Add paragraph: Owner may elect to disqualify a Bid due to failure to submit a Bid in the form requested, failure to Bid requested alternates or unit prices, failure to complete entries in all blanks in the Bid Form, or inclusion by the Bidder of any alternates, conditions, limitations or provisions not called for.

ARTICLE 6 POSTBID INFORMATION

6.1 CONTRACTOR'S QUALIFICATION STATEMENT

6.1.1 Add paragraph: Submit Contractor's Qualification Statement no later than five business days following Architect's request.

6.3 SUBMITTALS

Add to **6.3.1**:

- .4** Submit information requested in Sections 6.3.1.1, 6.3.1.2, and 6.3.1.3 no later than seven calendar days following Architect's request.

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

7.1 BOND REQUIREMENTS

Add to **7.1.4**:

7.1.4.1 Bond amounts shall not exceed the single bond limit for the Contractor's Bonding Company as set forth in the Federal Register current as of the bid date.

7.2 TIME OF DELIVERY AND FORM OF BONDS:

7.2.1 Replace the text with: The Bidder shall deliver the required bonds to Owner no later than the date of execution of the Contract. The Owner may deem the failure of the Bidder to deliver required bonds, within the period of time allowed, a default.

7.2.2 Replace the text with: Bonds shall be written on AIA Document A312 – Performance Bond and Payment Bond, the form in Section 00 3000, or on an equivalent form furnished by the Bonding Agent or Company and acceptable to the Owner.

7.2.3 Replace the text with: Bonds shall be executed and be in force on the date of the execution of the Contract.

Add to **7.2.3**:

7.2.3.1 The Bond shall remain current during the course of Construction with the Contract Sum as it remains unchanged, or as it is modified by Add-on Change Orders.

ARTICLE 8

ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS No Supplement

END OF DOCUMENT 00 1001

SECTION 00 3000 - FORMS

PART 1 - GENERAL

1.1 FORMS

- A. This Section includes the following forms:

1.2 BIDDING FORMS

- A. Bid Form
- B. Bid Bond (AIA A310-2010)

1.3 FORM OF AGREEMENT & PERFORMANCE BONDS

- A. Agreement Between Owner & Contractor (AIA A101-2017)
- B. Insurance and Bonds (AIA A101-2017 Exhibit A)
- C. Supplementary Conditions to AIA A101-2017 Exhibit A
- D. Performance and Payment Bonds (AIA A312-2010)
- E. Waiver of Subrogation

1.4 ADMINISTRATIVE FORMS

- A. Application and Certificate for Payment (AIA G702-1992)
- B. Continuation Sheet (AIA G703-1992)
- C. Submittal Form

1.5 CLOSEOUT FORMS

- A. Non-Asbestos Certification
- B. Contractor's Affidavit of Payment of Debts and Claims (AIA G706-1994)
- C. Contractor's Affidavit of Release of Liens (AIA G706A-1994)
- D. Consent of Surety to Final Payment (AIA G707-1994)

1.6 MISCELLANEOUS FORMS

- A. Request for Information (AIA G716-2004)
- B. Substitution Request Form
- C. Release Statement

PART 2 - PRODUCTS (Not applicable.)

PART 3 - EXECUTION (Not applicable.)

BID FORM

PROJECT: Turtle Mountain Community College
Concrete Pavement Replacement

BID OPENING DATE. Thursday, July 9, 2026

BID OPENING TIME. 11:00 AM CST

BID OPENING PLACE. Turtle Mountain Community College
10145 BIA Road 7
Belcourt, ND 58316

TO THE OWNER: Turtle Mountain Community College
10145 BIA Road 7, PO Box 340
Belcourt, ND 58316

I have received the Drawings and Specifications for the _____ Contract for EAPC Project No. 20232951, TMCC Concrete, to be erected at Belcourt, North Dakota.

I have also received Addenda Nos. _____ and have included their provisions in my Bid. I have examined both the documents and the site and submit the following Bid:

I will do the _____ Construction work for the lump sum price of _____
_____dollars (\$_____).

UNIT COSTS.

I will include authorized unit cost work as specified to be added to or deducted from the above Base Bid, for changes in dollars and time listed:

Unit Price No. 1, Replacement of additional pavement beyond the scope of work.

Add \$ _____

Add _____ Calendar Days.

In submitting this Bid, I agree:

1. To hold my bid open for 30 calendar days after its' opening.
2. To accept the provisions of the Instructions to Bidders regarding disposition of Bid Security.

3. To enter into and execute a Contract, if awarded on the basis of this bid, and to furnish Guarantee Bonds in accord with the Instructions to Bidders.
4. To accomplish the work in accord with the Contract Documents.
5. To substantially complete the Work in the Base Bid by October 31st, 2026.

I have attached the required Bid Security.

I have listed below the major Subcontractors whose bids I have used in submitting this Bid:

Concrete

Official Address:	_____	firm name
_____	_____	signed by
_____	_____	title

AIA[®] Document A310[™] – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)

SURETY:

(Name, legal status and principal place of business)

OWNER:

(Name, legal status and address)

Turtle Mountain Community College
10145 BIA Road 7 P. O. Box 340
Belcourt, ND 58316

BOND AMOUNT: \$**PROJECT:**

(Name, location or address, and Project number, if any)

Turtle Mountain Community College Concrete
Belcourt, ND

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

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

Signed and sealed this Fifth day of June , Two Thousand Twenty-Six

CONTRACTOR AS PRINCIPAL *(Signature)*

(Printed name and title)

(Witness)

SURETY *(Signature)*

(Printed name and title)

(Witness)

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AIA® Document A101® – 2017

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

AGREEMENT made as of the Fifth day of June in the year Two Thousand Twenty-Six
(In words, indicate day, month and year.)

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

Turtle Mountain Community College
10145 BIA Road 7 P. O. Box 340
Belcourt, ND 58316
(701) 477-7862

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

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

Turtle Mountain Community College Concrete
Belcourt, ND

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

Engineers-Architects, P.C. (herein known as EAPC Architects Engineers)
2080 36th Ave SW Suite 210
Minot, ND 58701
(701) 839-4547

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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.

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

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

TABLE OF ARTICLES

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

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

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

(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

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

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

§ 3.3 Substantial Completion

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

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

- Not later than () calendar days from the date of commencement of the Work.
- By the following date:

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

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

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

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be Zero Dollars and Zero Cents (\$ 0.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

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

Item	Price
------	-------

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
------	-------	---------------------------

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
------	-------

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

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

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than () days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

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

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

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

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

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

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

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

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

§ 5.1.7.1.1 The following items are not subject to retainage:

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

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

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

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this

Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

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

§ 5.2 Final Payment

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

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

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

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

%

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

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

§ 6.2 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:

(Check the appropriate box.)

- Arbitration pursuant to Section 15.4 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other (Specify)

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

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

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

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

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

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

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with a building information modeling exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with a building information modeling exhibit, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 Building information modeling exhibit, dated as indicated below:
(Insert the date of the building information modeling exhibit incorporated into this Agreement.)

- .5 Drawings

Number	Title	Date
--------	-------	------

- .6 Specifications

Section	Title	Date	Pages
---------	-------	------	-------

7 Addenda, if any:

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

8 Other Exhibits:

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

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

The Sustainability Plan:

Title	Date	Pages
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Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

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

OWNER (Signature)

CONTRACTOR (Signature)

(Printed name and title)

(Printed name and title)

AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Fifth day of June in the year Two Thousand Twenty-Six
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

Turtle Mountain Community College Concrete
Belcourt, ND

THE OWNER:
(Name, legal status and address)

Turtle Mountain Community College
10145 BIA Road 7 P. O. Box 340
Belcourt, ND 58316

THE CONTRACTOR:
(Name, legal status and address)

TABLE OF ARTICLES

- A.1 GENERAL
- A.2 OWNER'S INSURANCE
- A.3 CONTRACTOR'S INSURANCE AND BONDS
- A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

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

§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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.

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.

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companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

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

Causes of Loss	Sub-Limit
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§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

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

Coverage	Sub-Limit
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§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance,** to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of

loss.

- [] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
- [] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
- [] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
- [] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
- [] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
- [] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

- [] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.
(Indicate applicable limits of coverage or other conditions in the fill point below.)
- [] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show

the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

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

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than (\$) each occurrence, (\$) general aggregate, and (\$) aggregate for products-completed operations hazard, providing coverage for claims including

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

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than (\$) per accident, for bodily injury, death of any person, and property damage arising out of the

ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, 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.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

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

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

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

- [] **§ A.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the

trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

- [] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for Work within fifty (50) feet of railroad property.
- [] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- [] **§ A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an “all-risks” completed value form.**
- [] **§ A.3.3.2.5 Property insurance on an “all-risks” completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.**
- [] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
----------	--------

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
Payment Bond	
Performance Bond	

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

**SUPPLEMENTARY CONDITIONS TO AIA A101 – 2017, EXHIBIT A
INSURANCE AND BONDS**

ARTICLE A.5. SUPPLEMENTARY CONDITIONS

A.5.1 SUPPLEMENTS

These General Conditions of the Contract for Construction (AIA Document A201 - 2017, 15 Articles on 38 pages) are hereby made part of the Contract Documents whether bound herein or not. This Article A.5 contains changes and additions to the AIA A101 – 2017, Exhibit A, cross referenced to the original Article numbers in AIA A101 – 2017, Exhibit A. Where any part of AIA A101 – 2017, Exhibit A is not modified or voided by this Article A.5 or Division 1 Specifications Sections, the unaltered part remains in effect.

ARTICLE A.1 GENERAL - No Supplement

ARTICLE A.2 OWNER'S INSURANCE

REQUIRED PROPERTY INSURANCE

A.2.3.1, Exhibit A Add: The Vandalism and Malicious Mischief Endorsement will provide \$1,000.00 deductible that shall be covered by the Contractors if there is such an occurrence, in proportion to their loss.

The Owner shall have the following added to the fire insurance policy on the existing building:

- Subrogation Clause: It is hereby stipulated that this insurance shall not be invalidated should the insured waive in writing, prior to a loss, all rights of recovery against any party for loss occurring to the property described herein.

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

CERTIFICATE OF INSURANCE

A.3.1.1, Exhibit A Add: Proof of insurance coverage may be a fully descriptive, standard AIA or ACCORD Certificate of Insurance Agent's description of coverages provided the Contractor. The Architect will not warrant that information contained on the Certificate is correct, nor does the Architect warrant that the coverages and limits of liability will not be changed by the Contractor or the insurance company during the term of the Work.

The Contract will not be signed until the Owner has received the proof of liability insurance coverage and the Waiver of Subrogation specified in the Supplementary Conditions. See Section 00 3000 for form of Waiver of Subrogation.

COMMERCIAL GENERAL LIABILITY

A.3.2.2.1, Exhibit A Add: Liability Insurance shall comply with the following:

General Liability written on one of the following forms:

Comprehensive General Liability including Premises, Operations, Independent Contractors, Products, Completed Operations and the Broad Form Comprehensive General Liability Endorsement. XCU coverage shall be included if applicable.

OR

Commercial General Liability on an Occurrence Basis including Premises/Operations, Products/Completed Operations and Personal Injury. There shall be no endorsements deleting XCU coverages if applicable.

Automobile Liability: Written on a Business Auto Policy with liability covered auto symbols (1) or (7, 8, and 9) or (2, 8, and 9). If the carrier does not use the Business Auto Policy, an equivalent form providing liability coverage on a comprehensive basis including all owned, non-owned and hired autos shall be used.

Umbrella Liability or Excess Liability with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate. The self-insured retention, if written on an umbrella liability form, shall not exceed \$10,000. The policy shall provide a minimum of following form liability over the previous specified general liability and automobile liability. The amounts listed for Umbrella coverage include the total of the amount of the basic coverage plus the Umbrella coverage. A separate Umbrella policy is not required if the basic coverage is as large as the total specified.

Contractor's Property Damage Insurance specified shall cover property that the Contractor did not provide and that is damaged by the Contractor while working on other items in the vicinity.

The limits on the basic policies may be any amount acceptable to the Insurer furnishing the umbrella or excess coverage.

The Architect and Owner assume no responsibility in the event that the limits set above are not adequate.

Comprehensive General Liability or Commercial General Liability and Automobile Liability coverages shall be written by the same insurer. The insurance shall be placed with insurers rated "A" or better by A.M. Best Company, Inc.

Contractor's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the Owner or Architect. Any insurance, self-insurance or self-retention maintained by the Owner shall be in excess of the Contractor's insurance and shall not contribute with it.

The Owner and Architect and their officers and employees shall be endorsed as additional insured on the Contractor's general liability and automobile liability policies.

All subcontractors shall maintain the same scope of insurance required of the Contractor. The Prime Contractor shall ensure compliance with this requirement.

Commercial General Liability insurance for the project written on an occurrence form with policy limits of not less than one million \$1,000,000.00 each occurrence, two million dollars \$2,000,000.00 general aggregate, and two million dollars \$2,000,000.00 aggregate for products completed operations hazard.

Automobile liability one million dollars \$1,000,000.00 per accident – see paragraph A.3.2.3.

Umbrella Policy two million dollars \$2,000,000.00

Worker's Compensation: Statutory limits under applicable State or Federal Statutes.

Waiver of Subrogation where allowed by State law of the project location.

Alternative Employer endorsement (WC 00 03 01A) in favor of EAPC.

^^^
CONTRACTOR'S OTHER INSURANCE COVERAGE

A.3.3.2.1, Exhibit A: Builder's Risk Insurance as specified in A.2.3 shall be taken out and paid for by the Contractor rather than the Owner and shall be on a Completed Value form. The Vandalism and Malicious Mischief Endorsement may provide a deductible amount. In case of a loss under that Endorsement, the Contractor shall pay the deductible amount. This insurance shall include coverage against lightning, hail, explosion, riot or civil commotions, aircraft and other vehicles, collapse and coverage available under the so called Installation Floater.

A.3.3.2.1, Exhibit A Add to paragraph: Builder's Risk Insurance shall be on new portions of old building during remodeling.

A.3.3.2.1, Exhibit A Add to paragraph:

If one single contract is being bid, each General Contractor shall include in their bid the premium on the entire construction amount including all add Alternates plus 1% for the Architect's fee.

The Contract will not be signed until the Owner has received from the Contractor the proper policy and one copy thereof for the insurance specified under this Article.

A.3.3.2.1, Exhibit A Add: All references in this and other sections of Exhibit A that refer to the Owner as fiduciary for this type of insurance shall be changed to place the General Contractor as fiduciary.

PERFORMANCE AND PAYMENT BONDS

A.3.4, Exhibit A Replace the text with: The Contractor shall furnish bond or bonds as described below, covering the faithful performance of the Contract and the payments of all obligations arising thereunder. The Contract will not be signed until the owner has received the proper bond specified under this Article, issued by a bonding company licensed to do business in the State where the construction will take place.

Where there is State or Federal bond forms required by statute or regulations, the bond or bonds shall be on those forms, in the amount of 100% of the Contract Price.

Where no such requirements exist, furnish both AIA A312 Performance Bond and AIA A312 Labor and Material Payment Bond, each in the amount of 100% of the Contract Price.

Bond amounts shall not exceed the single bond limit for the Contractor's bonding company as set forth in the Federal Register current as of the bid date.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS - No Supplement

AIA[®] Document A312[®] – 2010

Performance Bond

CONTRACTOR:

(Name, legal status and address)

SURETY:

(Name, legal status and principal place of business)

OWNER:

(Name, legal status and address)

Turtle Mountain Community College
10145 BIA Road 7 P. O. Box 340
Belcourt, ND 58316

CONSTRUCTION CONTRACT

Date: 06-05-2026

Amount: \$ 0.00

Description:

(Name and location)

Turtle Mountain Community College Concrete
Belcourt, ND

BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$

Modifications to this Bond:

Company: *(Corporate seal)*

Company: *(Corporate seal)*

CONTRACTOR AS PRINCIPAL

(Signature)

SURETY *(Signature)*

(Printed name and title)

(Printed name and title)

(Any additional signatures appear on the last page of this Performance Bond)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

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

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1** the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2** the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3** the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1** After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2** Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1** the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2** additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and

- 3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

AIA® Document A312® – 2010

Payment Bond

CONTRACTOR:

(Name, legal status and address)

SURETY:

(Name, legal status and principal place of business)

OWNER:

(Name, legal status and address)

Turtle Mountain Community College
10145 BIA Road 7 P. O. Box 340
Belcourt, ND 58316

CONSTRUCTION CONTRACT

Date: 06-05-2026

Amount: \$ 0.00

Description:

(Name and location)

Turtle Mountain Community College Concrete
Belcourt, ND

BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$

Modifications to this Bond:

Company: *(Corporate seal)*

Company: *(Corporate seal)*

CONTRACTOR AS PRINCIPAL

(Signature)

SURETY *(Signature)*

(Printed name and title)

(Printed name and title)

(Any additional signatures appear on the last page of this Payment Bond)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

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

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under

this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

THE
E
R
D

ACKNOWLEDGEMENT OF PRINCIPAL OF CONTRACTOR
(Corporation)

STATE OF _____
ss

COUNTY OF _____

On this _____ day of _____, 20____, before me personally appeared _____, known to me to be the president (or other office or person) of the corporation that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

(SEAL) 1 _____
Notary Public

ACKNOWLEDGEMENT OF PRINCIPAL OF CONTRACTOR
(Individual or Partnership)

STATE OF _____
ss

COUNTY OF _____

On this _____ day of _____, 20____, before me personally appeared _____, known to me to be the person (or persons) who is (are) described in and who executed the within instrument, and acknowledged to me that he (or they) executed the same.

(SEAL) 1 _____
Notary Public

ACKNOWLEDGEMENT OF ATTORNEY-IN-FACT OF SURETY

STATE OF _____
ss

COUNTY OF _____

On this _____ day of _____, 20____, before me personally appeared _____, known to me to be the person who is described in and whose name is subscribed to the within instrument as the Attorney-in-Fact of _____ and acknowledged to me that subscribed the name of _____ thereto as surety and his own name as Attorney-in-Fact.

(SEAL) 1 _____
Notary Public

- NOTE:
1. The name of the notary must be legibly printed, stamped or typed immediately following his signature and the date of expiration of his commission must be endorsed thereon separately from his seal.
 2. Attach copy of Power of Attorney to each Bond.

WAIVER OF SUBROGATION AND SEVERABILITY OF INTERESTS ENDORSEMENT

A certificate of liability insurance has been provided to the Owner, by the undersigned insurer on behalf of the Contractor: _____

for the following project:

The endorsement is provided to certify that, with respect to the insurance coverages listed on the certificate, the undersigned insured hereby waives all rights to subrogation against the Owner, it's agencies, officers, Architects and Engineers, and other employees under the insurance policies as so indicated on the certificate.

Further, where the Owner is included as an additional insured, the policies as stated on the certificate of insurance shall include a cross liability or severability of interests clause in addition to the waiver of subrogation.

The undersigned also certifies that they are authorized to make this endorsement on behalf of said insurer.

Insurer

Date



AIA Document G702[®] - 1992

Application and Certificate for Payment

TO OWNER: Turtle Mountain Community College
 10145 BIA Road 7 P. O. Box 340
 Belcourt, ND 58316

PROJECT: Turtle Mountain Community College
 Concrete
 Belcourt, ND

APPLICATION NO: 001

PERIOD TO: June 5, 2026

CONTRACT FOR:

OWNER: []
ARCHITECT: []
CONTRACTOR: []

FROM: Engineers-Architects, P.C. (herein known as
 EAPC Architects Engineers)
 2080 36th Ave SW Suite 210
 Minot, ND 58701

VIA ARCHITECT: 20232951 /

CONTRACTOR:

CONTRACT DATE: FIELD: []

PROJECT NOS: 20232951 / OTHER: []

CONTRACTOR'S APPLICATION FOR PAYMENT
 Application is made for payment, as shown below, in connection with the Contract. AIA Document G703[®], Continuation Sheet, is attached.

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.

1. ORIGINAL CONTRACT SUM \$0.00
 2. NET CHANGE BY CHANGE ORDERS..... \$0.00 CONTRACTOR:
 3. CONTRACT SUM TO DATE (Line 1 ± 2)..... \$0.00 By: _____ Date: _____
 4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)..... \$0.00 State of: _____
 5. RETAINAGE:
 - a. 0.00% of Completed Work
 (Column D + E on G703): \$0.00 = _____ day of _____
 - b. 0.00% of Stored Material
 (Column F on G703): \$0.00 = _____ Notary Public: _____
- Total Retainage (Lines 5a + 5b or Total in Column I of G703)..... \$0.00 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: _____ Date: _____

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	\$0.00

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.



SUBMITTAL TRANSMITTAL

Project Name	
Project Number	

Date	
Previous Submittal Date	

To	
Attn	

From	

Incomplete submittals will be returned "Not Accepted".
 For each submittal, include a minimum of 1 copy and complete the following information:

SHOP DRAWINGS	No. of Copies _____	<input type="checkbox"/> Partial	<input type="checkbox"/> Complete	<input type="checkbox"/> Preliminary	<input type="checkbox"/> Final
Spec Section					
Item Description					
Manufacturer					
Supplier's Name				Phone Number	
Deviations					

PRODUCT DATA	No. of Copies _____	<input type="checkbox"/> Partial	<input type="checkbox"/> Complete	<input type="checkbox"/> Preliminary	<input type="checkbox"/> Final
Spec Section					
Item Description					
Manufacturer					
Supplier's Name				Phone Number	
Deviations					

SAMPLES	No. of Copies _____	<input type="checkbox"/> Partial	<input type="checkbox"/> Complete	<input type="checkbox"/> Preliminary	<input type="checkbox"/> Final
Spec Section					
Item Description					
Manufacturer					
Supplier's Name				Phone Number	
Deviations					

Please review the following attached submittal(s) as required by the Contract Documents.

Submitted By: _____
 Phone Number: _____ Email: _____
 Signature: _____

CONTRACTOR CERTIFICATION OF NON-ASBESTOS AND NON LEAD MATERIALS

PROJECT NAME AND LOCATION: _____ EAPC FILE: _____

BUILDING OWNER AND ADDRESS _____

CONTRACTORS NAME: _____

Address: _____

Telephone No. _____

The contractor hereby certifies that he, his subcontractors, and his suppliers have used or will use only non-asbestos containing materials and non-lead paints and no lead in the water systems in the construction of this project.

by: (Signature) _____ Date _____

(Print Name) _____

(Print Title) _____

NOTE: "Asbestos-Free" materials are not allowed on this project as the definition of "asbestos-free" materials allows asbestos content up to 1%. Only non-asbestos containing materials (which have no asbestos) are allowed.

INDEMNIFICATION

a) The CONTRACTOR will indemnify and hold harmless the OWNER and the ARCHITECT/ENGINEER and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the use in this contract of any asbestos or lead material prohibited under Section 70, Article 16, 3.5.1, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property or removal costs including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, and SUBCONTRACTORS, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

b) In any and all claims against the OWNER or the ARCHITECT/ENGINEER, or any of their agents or employees, by any employee of the CONTRACTOR, any SUBCONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any SUBCONTRACTOR under workmen's compensation acts, disability benefit acts or other employee benefit acts.

AIA® Document G706® – 1994

Contractor's Affidavit of Payment of Debts and Claims

PROJECT: *(Name and address)*
Turtle Mountain Community College
Concrete
Belcourt, ND

ARCHITECT'S PROJECT NUMBER:
20232951
CONTRACT FOR:

OWNER: []
ARCHITECT: []
CONTRACTOR: []
SURETY: []
OTHER: []

TO OWNER: *(Name and address)*
Turtle Mountain Community College
10145 BIA Road 7 P. O. Box 340
Belcourt, ND 58316

CONTRACT DATED:
06-05-2026

STATE OF:
COUNTY OF:

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

EXCEPTIONS:

**SUPPORTING DOCUMENTS ATTACHED
HERETO:**

1. Consent of Surety to Final Payment.
Whenever Surety is involved, Consent of Surety is required. AIA Document G707, Consent of Surety, may be used for this purpose
Indicate Attachment [] Yes [] No

The following supporting documents should be attached hereto if required by the Owner:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
3. Contractor's Affidavit of Release of Liens (AIA Document G706A).

CONTRACTOR: *(Name and address)*

CONTRACTOR'S Authorized Representative *(Signature)*

(Printed name and title)

Date

Subscribed and sworn to before me on this date:

Notary Public:
My Commission Expires:

Contractor's Affidavit of Release of Liens

PROJECT: <i>(Name and address)</i> Turtle Mountain Community College Concrete Belcourt, ND	ARCHITECT'S PROJECT NUMBER : 20232951	OWNER: []
TO OWNER: <i>(Name and address)</i> Turtle Mountain Community College 10145 BIA Road 7 P. O. Box 340 Belcourt, ND 58316	CONTRACT FOR:	ARCHITECT: []
	CONTRACT DATED: 06-05-2026	CONTRACTOR: []
		SURETY: []
		OTHER: []

STATE OF:
COUNTY OF:

The undersigned hereby certifies that to the best of the undersigned's knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

EXCEPTIONS:

**SUPPORTING DOCUMENTS ATTACHED
HERETO:**

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

CONTRACTOR: *(Name and address)*

CONTRACTOR'S Authorized Representative *(Signature)*

(Printed name and title)

Date

Subscribed and sworn to before me on this date:

Notary Public:
My Commission Expires:

AIA® Document G707™ – 1994

Consent of Surety to Final Payment

PROJECT: *(Name and address)*

Turtle Mountain Community College
Concrete
Belcourt, ND

ARCHITECT'S PROJECT NUMBER:

20232951

CONTRACT FOR:

CONTRACT DATED:

06-05-2026

OWNER: []

ARCHITECT: []

CONTRACTOR: []

SURETY: []

OTHER: []

TO OWNER: *(Name and address)*

Turtle Mountain Community College
10145 BIA Road 7 P. O. Box 340
Belcourt, ND 58316

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(Insert name and address of Surety)

on bond of

(Insert name and address of Contractor)

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall
not relieve the Surety of any of its obligations to
(Insert name and address of Owner)

Turtle Mountain Community College
10145 BIA Road 7 P. O. Box 340
Belcourt, ND 58316

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date:

(Insert in writing the month followed by the numeric date and year.)

Attest:

(Seal):

SURETY *(Signature)*

(Printed name and title)

AIA[®] Document G716[™] – 2004

Request for Information (“RFI”)

TO:

FROM:

PROJECT:

Turtle Mountain Community College Concrete
Belcourt, ND

ISSUE DATE:

RFI No.:

REQUESTED REPLY DATE:

PROJECT NUMBERS:

20232951

COPIES TO:

RFI DESCRIPTION: *(Fully describe the question or type of information requested.)*

REFERENCES/ATTACHMENTS: *(List specific documents researched when seeking the information requested.)*

SPECIFICATIONS:

DRAWINGS:

OTHER:

SENDER’S RECOMMENDATION: *(If RFI concerns a site or construction condition, the sender may provide a recommended solution, including cost and/or schedule considerations.)*

RECEIVER’S REPLY: *(Provide answer to RFI, including cost and/or schedule considerations.)*

By: _____

Date: _____

COPIES TO _____

Note: This reply is not an authorization to proceed with work involving additional cost, time or both. If any reply requires a change to the Contract Documents, a Change Order, Construction Change Directive or a Minor Change in the work must be executed in accordance with the Contract Documents.



SUBSTITUTION REQUEST FORM

Original
 Submittal
 Revised/Corrected Submittal

Project	Date
Location	File No.
Architect Engineer	No. of Copies

Submittal Item	Spec No.	Description	Supplier

Deviations	Item	Deviation Description	EAPC Comments

(Use additional sheets and attach to this form if required)

Item(s) have been checked for compliance with specification requirements and space limitations and will meet these conditions.

Requested By: _____ Date: _____
 Phone Number: _____ Email: _____

A/E Action

Acceptable
 Acceptable as Noted
 Not Acceptable
 Revise and Resubmit

This action applies to Design, Arrangement and Interpretation. Acceptance Does Not relieve the Contractor of responsibility of Dimensions, Quantities, or Deviations from the Drawings or Specifications.

By: _____ Date: _____
 EAPC

THIRD PARTY USER AGREEMENT FOR ELECTRONIC DRAWING DATA

The User agrees to comply with the following terms and conditions:

1. Electronic Data is defined as a .dwg or .rvt files or any derivative from such files or any form of electronic media used for purposes of construction.
2. All dimensions shown on contract documents are not verified and are not to be reused.
3. Details and elevations shown on contract documents are only for design and need to be completely redone by the detailer for erection purposes.
4. Engineering Architects, P.C. dba EAPC Architects Engineers (“Architect”) retains all rights to ownership of the Electronic Data and any intellectual property associated with architectural/engineering services provided by the Architect on the Project and the Electronic Data made available to the User. User specifically acknowledges that such Electronic Data is the proprietary information of the Architect and is provided to the User solely for the purposes of facilitating the User’s work on the Project. No permission is granted to the User for copying or reusing Electronic Data on other projects, for additions to this Project, or the completion of the Project by another architectural/engineering firm or individuals. Any use of the Electronic Data by the User other than the facilitation of the User’s work on this Project is subject to written approval of the Architect, which approval may be withheld for any reason. Approval may be contingent on the User paying additional compensation to the Architect and providing the appropriate legal protection to the Architect for the User’s use of the Electronic Data.
5. The Electronic Data represents only a portion of the engineer and architectural services performed by the Architect on the Project. Engineer represents and the User specifically acknowledges that the Electronic Data may not contain all changes to the documents since the initial release for bidding or that such Electronic Data is without inaccuracies. Use of the Electronic Data by the User, without the Architect’s written verification or adaptation for the specific purpose intended, will be at the User’s risk. The User may request the Architect’s written verification or adaptation that the Electronic Data is current and that it is otherwise supported by additional documentation. If requested, the Architect will provide such verification or adaptation provided the User fully compensates the Architect for providing the requested information, which compensation will be determined in the sole discretion of the Engineer.
6. The User specifically acknowledges the following:
 - a. The Electronic Data documents are provided by the Architect for the convenience of the User only.
 - b. The Electronic Data documents are prepared as the Architect’s internal working documents and as such may be incomplete, contain deliberate or unintentional inaccuracies or be in part obsolete.



- c. That the Architect makes no representation as to the Electronic Data completeness, currency, or accuracy, or compatibility with the User's software systems.
 - d. Any translation of Electronic Data from one computer system or computer environment can and often does result in the loss of important Electronic Data, including portions of test and dimensions, the existence, location or scale of symbols or other elements of graphics, the internal structure of Electronic Data including layers and Electronic Data attributes, or the style or weight of lines. The Architect specifically disclaims any liability associated with the User's use of the Electronic Data on any system.
 - e. The Architect will not routinely issue updates to its Electronic Data. It is solely the responsibility of the User to identify and make all required revisions or corrections to this Electronic Data or request a verification or adaptation from the Engineer.
7. Because the information being provided by the Architect to the User is being provided "AS IS" "with all faults", in the software release version standard to the Architect; and without representation by the Architect as to completeness, currency, or accuracy, the User specifically agrees to defend, indemnify and hold harmless the Architect, its affiliated entities, directors, officers, and employees from and against any and all claims arising out of the User's use of the Electronic Data and the preparation of information generated by the User through the Architect's Electronic Data. The indemnification shall include the User's agreement to pay all reasonable attorney's fees and expenses incurred by Architect in defending against any claim or action. In no event will Architect, its affiliated entities, directors, officers, and employees be liable to the User for indirect, general, incidental, consequential, or other damages.
8. The utilization of the Electronic Data by the User contrary to the terms and conditions of this Agreement shall constitute a breach of this Agreement and User, immediately upon the written demand of the Architect, shall return to the Architect all of the Architect's property, including the Electronic Data. Architect shall be entitled to seek all other claims arising out of the User's breach of this Agreement.
9. Attached hereto and incorporated by reference herein as Exhibit "A" is a written description outlining the Electronic Data requested by the User which includes such information as sheet number and special instructions relating to the Electronic Data. Also included on Exhibit "A" is information with regard to the compensation to be paid by the User to the Architect for the time and expense incurred by the Architect in the preparation and transfer of the Electronic Data. Special instructions relating to the Electronic Data to be included or excluded may be requested and may not require additional compensation. The Architect will not provide assurances that all special instructions can be accommodated.
10. This agreement shall be binding upon the respective successors and assigns of the parties hereto. User acknowledges that the Electronic Data will not be provided until a signed Agreement is on file with the Architect and total payment is received.



EXHIBIT A: ELECTRONIC FILE REQUISITION & RELEASE FORM

DATE: _____

Please complete the following information and remit a check for the "Total Amount Due" to EAPC Architects Engineers with the completed request form. Signature by the firm's representative and or payment with this completed request will constitute an agreement with the terms and conditions listed on the preceding two pages (Third Party User Agreement for Electronic Data).

PROJECT INFORMATION:

Project Name: _____

Project Location: _____

USER INFORMATION:

Company: _____

Representative Name: _____ Signature: _____

Address: _____ Dated: _____

City/State/Zip: _____

Telephone No.: _____

DRAWINGS REQUESTED:

Intended use of Drawings: _____

File(s)/Drawing Numbers needed (including file specification suffix and software version): _____

SECTION 00 7000 – GENERAL CONDITIONS

1 CONTENTS

This Section contains the printed standard document AIA Document A201 - 2017, General Conditions of the Contract for Construction, 15 Articles on 39 pages.

It also contains Article 16, Supplementary Conditions, which has changes and additions to the printed AIA standard document.

The printed standard document as modified by Article 16, both included in this Section 00 7000, applies to this Project except to the extent that it is supplemented for this Project by Division 1 Sections.

Section 00 8000 - Special Conditions – TERO Regulations



AIA[®]

Document A201[®] – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Turtle Mountain Community College Concrete
Belcourt, ND

THE OWNER:

(Name, legal status and address)

Turtle Mountain Community College
10145 BIA Road 7 P. O. Box 340
Belcourt, ND 58316

THE ARCHITECT:

(Name, legal status and address)

Engineers-Architects, P.C. (herein known as EAPC Architects Engineers)
2080 36th Ave SW Suite 210
Minot, ND 58701

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- 2 OWNER
- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 7 CHANGES IN THE WORK
- 8 TIME
- 9 PAYMENTS AND COMPLETION
- 10 PROTECTION OF PERSONS AND PROPERTY
- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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[™]-2017, 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 the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

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

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. 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 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 and owners 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 projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to 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 mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon written protocols governing the transmission and use of, and reliance on, Instruments of Service or any other information or documentation in digital form.

§ 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 written protocols governing the use of, and reliance on, the information contained in the model 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 authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

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

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

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

§ 2.2.4 Where 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' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including 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 to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 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 to the Contractor are both subject to prior approval of the Architect and the Architect may, 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 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, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

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

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, 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 and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 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 in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

§ 3.5 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 free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish

satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

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

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

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

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 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, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

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

§ 3.9 Superintendent

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

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect 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 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 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 Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits 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 approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

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

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor 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 is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

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

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

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

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

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

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

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

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

§ 3.13 Use of Site

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

§ 3.14 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 Project.

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

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

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, 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 issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

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

§ 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.

§ 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 and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

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

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

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or 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. 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, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect 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.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall

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

§ 5.4 Contingent Assignment of Subcontracts

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

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; 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.

§ 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.

§ 6.2 Mutual Responsibility

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

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

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

§ 7.2 Change Orders

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

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

§ 7.3 Construction Change Directives

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

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

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

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect 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 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;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 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, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 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 recorded 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. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

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

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

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

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

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

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

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

§ 8.2 Progress and Completion

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

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

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

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

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

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial

inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, 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 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 that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

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

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site

inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

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

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or 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 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 withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

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

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

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

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

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

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

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

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

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

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

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be

adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

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

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, 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 refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 The making of final payment shall 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, 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.

§ 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, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

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

§ 10.2.3 The Contractor shall 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.

§ 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 construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, 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 if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of 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 an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

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

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

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

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The 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. 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.

§ 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 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

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

§ 11.3 Waivers of Subrogation

§ 11.3.1 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) 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 Project, 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 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, to the extent permissible by such policies, 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.

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

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

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

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

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. 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 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 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 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. 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, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

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

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

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

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

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

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

§ 13.5 Interest

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

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

- .1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4** The Owner has failed to furnish to the Contractor 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 Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

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

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

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

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

§ 14.3 Suspension by the Owner for Convenience

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

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption 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 the termination fee, if any, set forth in the Agreement.

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. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 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 binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 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.

§ 15.1.3.2 Claims by either the Owner or Contractor, 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, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 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 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 issue Certificates for Payment 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. In the case of a continuing delay, only one Claim is necessary.

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

§ 15.1.7 Waiver of Claims for Consequential Damages

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

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 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, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. 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 and binding dispute resolution 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 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. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

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

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

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

with respect to the initial decision.

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

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

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

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

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

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

§ 15.4.4 Consolidation or Joinder

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

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

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

ARTICLE 16. SUPPLEMENTARY CONDITIONS

16.1 SUPPLEMENTS

These General Conditions of the Contract for Construction (AIA Document A201 - 2017, 15 Articles on 39 pages) are hereby made part of the Contract Documents whether bound herein or not. This Article 16 contains changes and additions to the AIA A201, cross referenced to the original Article numbers in AIA A201 - 2017. Where any part of AIA A201 - 2017 is not modified or voided by this Article 16 or Division 1 Specifications Sections, the unaltered part remains in effect.

ARTICLE 1. GENERAL PROVISIONS

THE WORK

1.1.3 Add: The term "provide" shall mean furnish and install in place.

THE DRAWINGS

1.1.5 Add: The general character and scope of the Work is shown by the Drawings. Where a portion of the Work is fully drawn and the remainder is merely indicated, the portion fully drawn shall apply to all similar part of the Work. Figured dimensions shall be followed in preference to scaled measurements. Dimensions on the Drawings are subject to field verification to suit adjacent elements.

THE SPECIFICATIONS

1.1.6 Add: Where Specifications are abbreviated type, they indicate complete sentences in the same manner as when a note occurs in the Drawings. Omissions of words such as "the Contractor shall" and "as shown on the Drawings" is intentional. The words "shall" or "shall be" are to be supplied by inference.

Where a number is listed in the Specifications (as for gauges, weights, temperatures, amount of time, etc.), the number shall be interpreted as that or better.

Division 00 and Division 01 of this book apply to every Specification Section in this book.

CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

1.2.1 Change the period at the end of the first sentence to a comma and add: "in operating order".

1.2.4 Add paragraph: In case of a conflict between the Contract Documents and any portion bid separately to the owner, if not reconciled by Addendum, the Architect/Engineer will determine which document is the most specific and the Contractor shall do the Work accordingly, at no change in price.

ARTICLE 2. OWNER

INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.3.6 Replace the text with: The Contractor(s) will be furnished as many sets of Drawings and Project Manuals as the Architect has available for distribution, but in no case less than one (1). If the Contractor(s) require additional sets, they will be furnished to the Contractor(s) at the cost of reproduction, and postage and handling, to be paid by the Contractor(s).

**ARTICLE 3.
CONTRACTOR**

CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.3.1.1 Add paragraph: Where multiple Prime Contracts are in effect the Contractor's schedule, prepared in accordance with Article 3.10.1 of these Supplementary Conditions and progress shall govern the Work of the other Prime Contractors. Each Contractor shall notify other Prime Contractors, within a reasonable time, of phases or items of the Work requiring incorporation of Work by the other Prime Contractors. The other Prime Contractors shall, after such notification and within a reasonable time, proceed with the furnishing, installation, laying out or incorporation of their Work so as not to delay or impede the progress of the Work.

3.3.1.2 Add paragraph: Each Prime Contractor shall be responsible for the regular and on-going coordination of their Work with the affected Work of other Prime Contractors and for maintaining and coordinating the progress of the Work in accordance with the construction schedule, prepared in accordance with Article 3.10.1 of these Supplementary Conditions for scheduling requirements.

LABOR AND MATERIALS

3.4.4 Add paragraph: **WORKMANSHIP AND MATERIALS.**

a) No trade shall commence Work until conditions are right for carrying out the Work properly, and surfaces affecting the Work of that trade are suitable.

b) Manufacturer's printed instructions covering details of installations shall be followed where not in conflict with these Specifications. If there is a conflict, notify the Architect and obtain approval before proceeding.

c) Completed Work shall be left plumb, level, true to line or plane, anchored securely in place, free from damage.

d) Unless otherwise called for, all pieces of material shall be as large a stock size as is in conformity with standard good practice of the trade.

e) Except where in conflict with these specifications, current manufacturer's printed specifications of herein specified proprietary products are made part of these specifications.

f) Deliver and store materials so as to protect from damage. Inspect materials for damage as delivered.

g) For items fabricated to fit the needs of this project, verify dimensions by field measurements where practical. Establish Dimensions: Where field measurements cannot be made without delaying the Work, establish dimensions and proceed with fabrication. Coordinate construction to ensure that actual dimensions correspond to established dimensions. Allow for trimming and fitting.

h) For brand name materials where purchase method allows: Deliver in original container with seals unbroken and with original labels with manufacturer's name, product brand name and directions intact.

i) Where these specifications call for products that meet national standards (such as ASTM, CS, Federal Specifications, etc.), furnish a certification from the manufacturer that those products do meet the specified standards.

j) Obtain each separate type of product from the same manufacturer.

k) Before each trade commences work, conduct a pre-installation conference at the area of the site where the work will begin. The conference shall include the General Contractor's Superintendent and representatives of all trades whose work interfaces with the trade about to begin work. The purpose will be to determine that conditions are proper for beginning the work and assure that other trades will coordinate as needed.

TAXES

3.6.1 Add paragraph: Contractor shall pay the ND Use tax per section 57-40.202.1 of the Century Code. Use tax applies to the purchase of tangible personal property by an individual or business not taxed at the time of purchase for storage, use or consumption in North Dakota.

PERMITS

3.7.7 Add paragraph: EQUAL OPPORTUNITY CLAUSE During the performance of this contract, the Contractor agrees to follow Section 202 of "Executive Order 11246 of September 24, 1965" relative to Non Discrimination in Employment by Government Contractors and Subcontractors and/or any directive regarding Equal Opportunity Employment issued by State where the project is located.

CONTRACTOR'S CONSTRUCTION AND SUBMITTAL SCHEDULES

3.10.1 Add: The Contractor with the largest Contract shall prepare the construction schedule in cooperation with the other prime Contractors and obtain written evidence of their concurrence. The first payment will not be certified by the Architect until the progress schedule is received. See also Section ~~01-1500~~ 01 3200.

DOCUMENTS AND SAMPLES AT THE SITE

3.11 Add:

1. Immediately upon receipt of contract documents, identify one each of the documents with the title, "RECORD DOCUMENTS - JOB SET." Update the record set with all Addenda items.
2. Through progress of the work, the Contractor shall maintain an accurate record of changes in the contract documents, as described below. Upon completion of the work, transfer the recorded change in ink to a set of record documents. See also Section 01 78 39 – Project Record Documents.
3. Changes that shall be recorded are *major concealed items* from what is called for by the Contract Documents. This is to include such items as main pipes and conduit or changed structural members which cannot be observed on completion even with the use of access doors or removable panels.
4. Coordinate changes within the record documents, making adequate and proper entries on each page of specifications and each sheet of drawings and other documents where such entry is required to show the change properly.
5. Accuracy of records shall be such that future searches for items shown in the contract documents may rely reasonably on information obtained from the approved project record documents.
6. Make entries within 24 hours after receipt of information that the change has occurred. Prior to submitting request for final payment, submit the final project record documents to the Architect and secure his approval. Maintain the job set of record documents completely protected from deterioration and from loss and damage until completion of the work and transfer of all recorded data to the final project record documents.
7. Submit the completed set of project record documents to EAPC as described in Section 01 78 39.

8. Participate in review meeting as required.
9. Make required changes and promptly deliver the final project record documents to EAPC.
10. EAPC will review for completeness of record documents.

The purpose of the final project record documents is to provide factual information regarding all aspects of the work, both concealed and visible, to enable future modification of the work to proceed without lengthy and expensive site measurement, investigation, and examination.

CLEANING UP

3.15.1.1 Add paragraph: CLEANING DURING CONSTRUCTION. The building site shall be cleaned weekly and more often if necessary to provide a safe and hazard free work place. Maintain floors broom clean. See also AIA A201.6.3.

ACCESS TO WORK

3.16.1 Add paragraph: The Contractor shall confine the Work, the storage of items and parking within an area agreed upon with Owner.

INDEMNIFICATION

Add to 3.18.1: Actions that EAPC might take or fail to take with regard to Shop Drawings are to be covered by 3.18.1 to the same extent as actions in other matters.

ARTICLE 4 ARCHITECT

GENERAL

4.1.2 Add:

The Architect/Engineer has no duties or responsibilities in regard to insurance or legal decisions, surveying, subsurface soil exploration, geophysical testing, soil analysis or soil testing, testing for contamination by airborne asbestos fibers, bulk sample analysis for asbestos identification and content determination. The Architect/Engineer's obligations are solely to the Owner. In meeting such obligations, EAPC may increase the burdens and expenses of the Contractor, Subcontractors or Employees or the Surety of any of them. Nothing in the performance of EAPC's services in connection with this project implies any undertaking for the benefit of, or which may be enforced by the Contractor, Subcontractor or Employees, or the Surety of any of them.

ADMINISTRATION OF THE CONTRACT

4.2.3 Add: The Architect will not be responsible for the acts or omissions of the Owner.

COMMUNICATIONS

4.2.4 Add: If there are any direct communications between Owner and Contractor, that affect the performance or Administration of the Contract, the gist of such communication shall be reduced to writing by the Owner, with a copy to the Architect.

ARTICLE 5

SUBCONTRACTORS No Supplement

ARTICLE 6

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS No Supplement

ARTICLE 7

CHANGES IN THE WORK

GENERAL

7.1.4: Add paragraph: Divisions 00 and 01 state generally how change proposals shall be handled. When quoting on a change proposal, a Contractor shall furnish a complete and itemized list of materials involved due to a proposed change in work if so requested showing:

The actual cost of:

Labor, including foreman, on a per item basis.

Materials, all individually priced, entering permanently into the work.

The Ownership or rental cost of construction plant and equipment during the time of use on the extra work.

Insurances, permits, fees and other direct job expenses applicable to the changes.

To the total cost of the items above, add an allowance for overhead and profit, as appropriate for the paperwork involved.

Compute add or deduct change orders on the same basis.

The Architect shall have the right to require actual quotations for materials and/or labor from the contractor or suppliers.

When either or both additions and credits covering related work or substitutions are involved in any one change, the allowance for overhead and profit shall be calculated on basis of the net amount of cost or credit.

1. The allowance for overhead and profit combined, included in the total cost shall be based on the following schedule:
 - 1.1 For the Contractor; for added work performed by the Contractor's own forces, 15 percent of the cost; for deleted work performed by the Contractor's own forces, 5 percent of the cost.
 - 1.2 For the Contractor; for added work performed by the Contractor's Subcontractor, 5 percent of the cost due the Subcontractor.
 - 1.3 For each Subcontractor or Sub-subcontractor involved; for added work performed by the Subcontractor's own forces; 15 percent of the cost; for deleted work performed by the Subcontractor's own forces; 5 percent of the cost.
 - 1.4 For each Subcontractor; for added or deleted work performed by the Subcontractor's Sub-subcontractor, 5 percent of the amount due the subcontractor.
 - 1.5 Cost to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.4.
2. In order to facilitate the checking of quotations for extras or credit, all proposals, except those so minor that their propriety can seem by inspection, shall be accomplished by a complete itemization of costs including labor, materials, and subcontracts. Labor and materials shall be itemized in the manner described above. Where major cost items are subcontract, they shall be itemized also.

7.1.5: Add paragraph: By signing a Change Order, the Contractor agrees that the changed Contract Amount is in full payment for the changed work, including that resulting from any resulting changes in the time schedule.

ARTICLE 8 TIME

DELAYS AND EXTENSIONS OF TIME

8.3.1 Add: The following will not be considered justifications for extension of time unless due to one of the causes stated within this Article 8.

- a) Delay caused by Subcontractors or Supplier except if the Supplier goes out of business and another Supplier cannot be found in time to meet schedule.
- b) Shortage of workmen.

ARTICLE 9 PAYMENTS AND COMPLETION

SCHEDULE OF VALUES

9.2. Add: Schedule of Values shall to suit the Contractor's judgment for the particular project following the format of the sample in Section 00 3000. Use the same form for payment requests, along with the form "Partial Payment Summary Sheet" in Section 00 3000.

SUBSTANTIAL COMPLETION

9.8.1 Add: Minor corrective Work and the replacement of defective Work or materials, and the adjustment of control apparatus will not delay the determination that the Contract is Substantially Complete. See 12.2.2.

9.8.6 Add paragraph: At 12:01 a.m. on the Date of Substantial Completion, the Owner becomes responsible for the care and operation of the accepted Work.

ARTICLE 10 PROTECTION OF PERSONS OR PROPERTY

INJURY OR DAMAGE TO PERSON AND PROPERTY

10.2.9 Add paragraph: Contractor shall submit to the Owner a copy of the written safety program to be used as guidelines and direction of the Contractor's and subcontractors' worksite activities. This program must meet all federal, state and local laws and other legal requirements and include the following minimum provisions: (1) a worksite safety policy and mission statement; (2) assigned responsibilities among management, supervisors and employees; (3) a system for periodic self-inspections, including inspection of job sites, materials, work performance and equipment; (4) a thorough accident and injury reporting and investigation process; (5) a safety orientation program including first aid, medical attention, emergency facilities, fire protection and prevention, housekeeping, illumination, sanitation, personal protective equipment and occupational noise exposure; and (6) a safety training program including safety "tool box" meetings and

other systems for ongoing training, including training for employees on the recognition, avoidance and prevention of unsafe conditions.

It shall be a condition of the Contract and shall be made a condition of each subcontract entered into pursuant to the contract, that the owner assumes no liability relating to its receipt and review of the Contractor's safety plan. Safety remains the responsibility of the Contractor. Furthermore, the right of the Owner to receive and review the safety plan 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.

HAZARDOUS MATERIALS AND SUBSTANCES

10.3.4 Add: Asbestos containing materials are prohibited from use in the construction of this project. The Contractor shall certify that only non-asbestos materials were used (See certification Form in Section 00 3000). Typical materials likely to contain asbestos include roofing, acoustical treatments, fireproofing, drywall, plaster, resilient flooring, insulation's, mastics/adhesives, gaskets, mineral products, cementitious boards/pipes/mortar, etc.

Lead containing materials are prohibited from use in the construction of this project.

ARTICLE 11 INSURANCE AND BONDS No Supplement

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK No Supplement

ARTICLE 13 MISCELLANEOUS PROVISIONS

GOVERNING LAW

13.1.1 Add paragraph: Where the Contract Documents require Work better than that required by statute, the Contract Documents shall govern.

13.1.2 Add paragraph: If changes in laws, regulations, or codes made after the date of the Bid Opening require substantial revisions in the scope, extent or complexity of the Work called for by the Contract Documents, an equitable adjustment will be made in the terms of the Contract.

13.6 Add paragraph: NOTIFICATION OF DEMOLITION AND RENOVATION
For any project located in North Dakota which will have either demolition or renovation, the Contractor shall fill out the form at the end of this section, get it signed by the Owner and send it by mail or fax and mail to the ND State Department of Health to be received by them at least 10 days before beginning the activity, all per the instructions on the form.

13.8. Add Paragraph: LIQUIDATED DAMAGES
Liquidated Damages: The parties acknowledge and agree that time is of the essence under the Contract, and delays in Substantial Completion of the Work beyond the date specified in the Contract, subject to adjustment as provided in the Contract, would result in disruption of the Owner's operations. Accordingly, the parties hereby agree to work in good faith to achieve the schedule without penalties of liquidated damages.

ARTICLE 14
TERMINATION OR SUSPENSION OF THE CONTRACT No Supplement

ARTICLE 15
CLAIMS AND DISPUTES

Add: 15.3.2 Claims not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association in effect as of July 1, 2001. Any provision in such Rules to the effect that rules in effect at the time of filing of a demand for arbitration shall apply are hereby deleted, it being the intent that no amendments to the Rules shall apply to these parties. Notwithstanding the foregoing, the administrative fees to be paid shall be those in effect as of the time of filing the demand for arbitration. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association, and a copy shall be filed with the Architect.

END OF SECTION 00 7000



ASBESTOS NOTIFICATION OF DEMOLITION AND RENOVATION

North Dakota Department of Health
Division of Air Quality
SFN 17987 (03/17)

I. Type of Notification

THIS NOTICE MUST BE SUBMITTED 10 WORKING DAYS BEFORE BEGINNING THE ACTIVITY

<input type="checkbox"/> Original	<input type="checkbox"/> Revised	<input type="checkbox"/> Cancelled	Date:
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II. Type of Operation

III. Is Asbestos Present?

<input type="checkbox"/> Demolition	<input type="checkbox"/> Renovation	<input type="checkbox"/> Ordered Demolition	<input type="checkbox"/> Emergency Renovation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
-------------------------------------	-------------------------------------	---	---	------------------------------	-----------------------------

IV. Dates of Asbestos Removal (MM-DD-YY)

V. Dates of Demolition or Renovation (MM-DD-YY)

Start:	Stop:	Start:	Stop:
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VI. Facility Information (identify owner and operator, if applicable)

Owner Name			
Owner Address	City	State	Zip Code
Contact Person	Email	Telephone Number	
Operator (if different than owner)			
Operator Address	City	State	Zip Code
Contact Person	Email	Telephone Number	

VII. Facility Description (include building name, number and floor or room number)

Building Name				
Building Address	City	State	Zip Code	County
Site Location (floor or room number(s))				
Building Size (Sq. Ft.)	Number of Floors		Age of Building/Year Built	
Present Use	Prior Use			

VIII. Asbestos Contractor (If applicable, please enter Demolition or Renovation Contractor information on page 2)

Contractor Name			ND License Number	
Contractor Address	City	State	Zip Code	
Contact Person			Telephone Number	

IX. Asbestos Inspector

Firm Name			ND License Number	
Firm Address	City	State	Zip Code	
Name of Inspector			Telephone Number	

X. Approximate Amount of Asbestos, Including:

	Regulated Asbestos-Containing Material (RACM) to be Removed	Nonfriable Asbestos-Containing Material to be Removed		Nonfriable Asbestos-Containing Material not to be Removed	
		Category I	Category II	Category I	Category II
Pipe (Linear Ft.)					
Surface Area (Sq. Ft.)					
Volume from Facility Component(s) (Cu. Ft.)					

XI. Testing Procedure for Determining Asbestos and Type of Asbestos Material(s)

<input type="checkbox"/> PLM <input type="checkbox"/> TEM <input type="checkbox"/> Other:	Type of Asbestos-Containing Material(s)
---	---

XII. Description of Work Practices and Engineering Controls to Prevent Asbestos Emissions (check all that apply)

<input type="checkbox"/> Adequately Wet Materials	<input type="checkbox"/> Glove Bag	<input type="checkbox"/> Seal in Leaktight Containers	<input type="checkbox"/> Encapsulate
<input type="checkbox"/> Negative Air Containment	<input type="checkbox"/> Seal in Leaktight Wrapping	<input type="checkbox"/> Mini-enclosure	<input type="checkbox"/> Other:

XIII. Description of Planned Demolition or Renovation Work (backhoe, bulldozer, hand removal, etc.)

Will the Facility or Facility Debris be Burned?
 Yes No If yes, you must contact your local Health Unit or the Air Quality Division at 701.328.5188, to complete an Open Burn Variance Application: **SFN 8509.**

XIV. Demolition Contractor

Firm Name		Secretary of State License Number	
Firm Address	City	State	Zip Code
Contact Person		Telephone Number	

XV. Waste Transporter

Name		Waste Hauler Permit Number	
Address	City	State	Zip Code
Contact Person		Telephone Number	

XVI. Waste Disposal Site for Asbestos-Containing Materials

Name	Permit Number	Telephone Number	
Address	City	State	Zip Code

Will the waste be disposed of at a site other than a Landfill approved for asbestos? Yes No
 If yes, you must contact the Waste Management Division at 701.328.5166 to complete an Inert Waste Disposal Variance Application: SFN 50278.

XVII. Waste Disposal Site for Demolition or Renovation Materials (other than asbestos)

Name	Permit Number	Telephone Number	
Address	City	State	Zip Code

XVIII. If Demolition was Ordered by Government Agency, Identify the Agency and Attach a Copy of the Order

Authority/Agency	Date of Order (MM/DD/YY)	Telephone Number
------------------	--------------------------	------------------

XIX. Emergency Demolition or Renovation

Is this an emergency demolition or renovation? Yes No **If yes, you must contact the Department at 701.328.5188.**

XX. Description of Procedures to be Followed in the Event of an Unexpected Asbestos Fiber Release

--

XXI. General Comments

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XXII. I certify to the best of my knowledge that the above information is true and correct. I further certify that all asbestos abatement work on this project will be performed by individuals certified in accordance with the North Dakota Air Pollution Control Rules 33-15-13.

Signature of Owner/Operator	Print Name	Date
Business/Organization	Telephone Number	

Return form to: North Dakota Department of Health
 Division of Air Quality, 2nd Floor
 918 E Divide Avenue
 Bismarck, ND 58501-1947
 Telephone: 701.328.5188 or Fax: 701.328.5185 (If faxing, original copy must be mailed with valid signature)

**INSTRUCTIONS FOR COMPLETING THE
ASBESTOS DEMOLITION AND RENOVATION NOTIFICATION FORM**

GENERAL INFORMATION

The Asbestos NESHAP, Section 33-15-13-02 of the North Dakota Air Pollution Control Rules, requires written notification of demolition or renovation activities in facilities under Subsection 02.6. In most cases, a facility includes all types of structures except single family homes and apartment buildings having no more than four units. The enclosed form must be used to fulfill this requirement. Only complete notification forms will be accepted.

The notification should be typewritten or neatly printed and postmarked or delivered no later than ten working days prior to the beginning of either the asbestos removal activity (Section IV) or demolition activity (in Section V) whichever is applicable.

INSTRUCTIONS

- I. Type of Notification: Check "Original" if the notification is a first time or original notification, "Revised" if the notification is a revision of a prior notification, or "Canceled" if the activity has been canceled. On the right side enter the date that the notification is being submitted.
- II. Type of Operation: Check as appropriate for facility demolition, for facility renovation, for ordered demolitions, or for emergency renovations.
- III. Is Asbestos Present? Answer "Yes" or "No."
- IV. Scheduled Dates of Asbestos Removal (MM-DD-YY): Enter scheduled dates (month/day/year) for asbestos removal work. Asbestos removal work includes any activity, including site preparation, which may break up, dislodge or disturb asbestos material.
- V. Scheduled Dates of Demolition/Renovation (MM-DD-YY): Enter scheduled dates (month/day/year) for beginning and ending the planned demolition or renovation project.
- VI. Facility Information: Enter the names, addresses, contact persons and telephone numbers of the following:

Owner: Legal owner of the site at which asbestos is being removed or demolition planned.

Operator: Demolition contractor, general contractor, or any other person who leases, operates, controls or supervises the site.

If known, the name of the site supervisor should be entered as the contact person for the notification. If additional parties share responsibility for the site, demolition activity, renovation or ACM removal, include complete information (including name, address, contact person and telephone number) on additional sheets submitted with the form.
- VII. Facility Description: Provide the following information on the areas being renovated or demolished:

Building Address: Physical location of site.

Building Size: The building size in square feet.

Number of Floors: Enter the number of floors including basement, if applicable.

Year Facility was Built or Age: Enter approximate age of the facility.

Present Use/Prior Use: Describe the primary use of the facility or enter the following codes: H -- Hospital; S -- School; P -- Public Building; O -- Office; I -- Industrial; U -- University or College; C -- Commercial; or R -- Residence.
- VIII. Asbestos Contractor: Name and address of contractor hired to remove asbestos.
- IX. Asbestos Inspector: The firm who conducted the asbestos inspection prior to demolition/renovation.

- X. Approximate Amount of Asbestos Including: (1) Regulated ACM to be removed (including nonfriable ACM to be sanded, ground or abraded); (2) Category I and Category II nonfriable asbestos containing material (ACM) to be removed; and (3) Category I and Category II nonfriable asbestos containing material not to be removed. For both renovations and demolitions, enter the amount of RACM to be removed by entering a number in the appropriate box. If applicable, enter the amount of nonfriable ACM to be removed during a demolition or renovation, and/or enter the amount of nonfriable ACM not to be removed during a demolition or renovation.

Category I nonfriable material includes packing, gaskets, resilient floor covering and asphalt roofing materials. Category II nonfriable material includes any material, excluding Category I materials, that when dry, cannot be crumbled, pulverized or reduced to powder by hand pressure, or mechanical forces expected to operate on the material during the demolition or renovation activity. All Category II materials must be removed prior to demolition.

Complete the volume from facility component(s) if asbestos-containing materials have been removed from facility components and the volume is known.

- XI. Asbestos Testing Procedure and Type of Asbestos Materials Present: Check the appropriate box for the procedure that was used to determine asbestos content. Also, describe the kinds of asbestos-containing materials that are present.
- XII. Description of Work Practices and Engineering Controls to Prevent Asbestos Emissions: Check the appropriate box(s) for work practices that will be employed to prevent asbestos emissions.
- XIII. Description of Planned Demolition or Renovation Work: Include a brief description of the renovation/demolition technique(s) to be used. Also, indicate if the facility or facility debris will be burned.
- XIII. Demolition or Renovation Contractor: Name and address of contractor hired to perform demolition or renovation work.
- XV. Waste Transporter(s): Enter the name(s), addresses(s), contact person(s) and telephone number(s) of the person(s) or company(ies) responsible for transporting ACM from the removal site to the waste disposal site. If the removal contractor or owner is the waste transporter, state "same as owner" or "same as removal contractor." If multiple parties are responsible include complete information on an additional sheet and submit with this form.
- XVI. Waste Disposal Site for the Asbestos-Containing Materials: Identify the waste disposal site, including the complete name, location, and telephone number of the facility. If ACM is to be disposed of at more than one site, provide complete information on an additional sheet submitted with the form. Permit number(s) must be included. If the waste will not be disposed of at a landfill approved for asbestos, then an Inert Waste Disposal Variance Application must be completed and approved by the Department.
- XVII. Waste Disposal Site for Demolition or Renovation Materials: Identify the waste disposal site, including the complete name, location, and telephone number of the facility. If the waste will not be disposed of at a landfill approved for waste materials, then an Inert Waste Disposal Variance Application must be completed and approved by the Department.
- XVIII. If Demolition Ordered by a Government Agency, Please Identify the Agency below: Provide the name of the responsible official, title and agency, authority under which the order was issued and the date of the order. A copy of the order from the government agency must be attached to this form.
- XIX. Emergency Demolition or Renovation Information: Please identify if the work is an emergency demolition or renovation. If yes, please immediately contact the Department.
- XX. Description of Procedures to be Followed in the Event that Unexpected Asbestos Fiber Release: Provide adequate information to demonstrate that appropriate actions have been considered and can be implemented to control asbestos emissions adequately, including at a minimum, conformance with applicable work practice standards. Attach an additional sheet of paper if needed and submit with this form.
- XXI. General Comments: as necessary. Attach an additional sheet of paper if needed and submit with this form.
- XXII. Verification and Certification: Certify the accuracy and completeness of the information provided and the intent to comply with the North Dakota Air Pollution Control Rules by signing and dating the notification form. Please sign and print the name of the owner or operator and list the business or organization the owner or operator is affiliated with.

SECTION 00 8000 – SPECIAL CONDITIONS – TERO REGULATIONS

PART 1 - GENERAL

1.1 TERO

- A. TERO Ordinance shall govern hiring practice and wage rates. See attachment at the end of this section.

1.2 TITLE 18 BUSINESS REGULATIONS

- A. Title 18 Business Regulations shall govern business licenses for work performed at Turtle Mountain. See attachment at the end of this section.

1.3 TAXES

- A. The project is not tax exempt from ND use / sales tax.
- B. Include a 1% EPA tax on the project bid in addition to the TERO tax requirements.

1.4 WAGES

- A. Title 32 Tribal Employment Rights Ordinance shall govern employment at Turtle Mountain. See attachment at the end of this section.

1.5 AWARD OF CONTRACT AND INDIAN PREFERENCE USED IN THE AWARD:

- A. The Contract will be awarded to the lowest responsive and responsible bidder except as limited by the following paragraph.

Pursuant to Section 7(b) of the Indian Self-Determination and Education Assistance Act and HUD requirements set forth at 24 C.F.R. 950.175, if a Contract is awarded, the Contract will be awarded to the lowest responsive and responsible bid received from a pre-qualified Indian enterprise or organization if such bid is within budgeting limits established for construction of this project and is no more than "X" percent higher than the lowest responsive bid from any qualified non-Indian bidder.

“X” is determined as follows: X equals the lesser of, when the lowest responsive bid is,

1. Less than \$100,000--10% of that bid or \$9,000.
2. At least \$100,000 but less than \$200,000--9% of that bid (or \$16,000;)
3. At least \$200,000 but less than \$300,000--8% of that bid (or \$21,000;)
4. At least \$300,000 but less than \$400,000--7% of that bid (or \$24,000;)
5. At least \$400,000 but less than \$500,000--6% of that bid (or \$25,000;)
6. At least \$500,000 but less than \$1,000,000--5% of that bid (or \$40,000;)

7. At least \$1,000,000 but less than \$2,000,000--4% of that bid (or \$60,000;)
8. At least \$2,000,000 but less than \$4,000,000--3% of that bid (or \$80,000;)
9. At least \$4,000,000 but less than \$7,000,000--2% of that bid (or \$105,000;)
10. \$7,000,000 or more--1 1/2 % of the lowest responsive bid, with no dollar limit

- a. If no responsive and responsible bid by a qualified Indian enterprise or organization is within the stated range, the award will be made to a responsible bidder with the lowest responsive bid

B. Pre-qualification of bidders seeking Indian preference. Indians, Indian enterprises or Indian organizations seeking to qualify for preference in the award of this Contract shall submit the following proof of Indian ownership and control to the Owner no later than 3 days prior to bid opening

1. Certification by a tribe that an individual applicant is an enrolled member;
2. Evidence of more than 50% Indian ownership and control of the bidding entity, such as stock ownership, structure, management control, financing, and salary or profit sharing arrangements of the enterprise
3. The evidence of eligibility must be submitted to the Owner no later than 3 days prior to bid opening. The evidence submitted must be sufficient to demonstrate more than 50% Indian ownership and control as well as the ability to properly perform the work to the satisfaction of the Owner. The Owner will attempt to notify all applicants as to eligibility for Indian preference prior to the bid opening.
4. An Indian or Indian-owned bidder who is awarded the Contract under Indian preference is required to maintain 50% Indian ownership and control during the Contract or be in material breach of the Contract. Any changes in ownership and control after the submission of evidence of Indian ownership and control must be reported to and approved by the Owner.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 00 8000

TITLE 18

TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

BUSINESS REGULATIONS & LICENSES

2012

**TITLE 18
BUSINESS REGULATIONS AND LICENSES
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**TITLE 18
BUSINESS REGULATIONS AND LICENSES**

**CHAPTER 18.01
Administration and Enforcement**

18.0101 General.

The administration and enforcement of this Title is vested in and shall be exercised by the Director of the "Tribal Employment Rights Ordinance" (TERO). All payments and fees regarding business shall be made to the Director of TERO.

18.0102 Regulatory license.

If any other title, ordinance or law of the Turtle Mountain Band of Chippewa requires a person or business license under this Title to obtain a license or permit for regulatory purposes, no license or permit under this Title shall be issued until the business has obtained the required license or permit.

18.0103 Business license.

Unless otherwise specifically provided in this Title, all persons, association, companies, firms or corporations conducting or engaged in any business or trade within the Turtle Mountain Band of Chippewa (reservation) jurisdiction must obtain a license or permit. Application for, issuance, termination, and revocation of such license shall be governed by the terms of this Title.

18.0104 License; Application.

Any person desiring a license or permit shall make a written application to the Director of TERO therefore upon completion of a blank application furnished by the TERO Commission and upon filing the same with the Director of TERO stating a description of the business, the name and address of the business, the purpose for which the same is desired, for what length of time, and specifying the place where the business is to be carried on; if required to file a bond before being licensed the person shall also name the proposed sureties on the bond in his application.

18.0105 License; Granting.

1. The TERO Director shall receive applications for licenses and permits, and upon approval grant the same in all cases where expressly authorized upon the terms and conditions specified by this Title. The Director will refer any applications for any purpose not named by this Title to the TERO Commission for a determination of the Director's authority to grant any license or permit.
2. Upon receipt of each application the TERO Director shall conduct such investigation of the applicant's business and moral character, as he deems necessary for the protection of the public good. If an investigation is conducted and the applicant's character or business responsibility is found to be unsatisfactory, the TERO Director shall notify the applicant that his application is disapproved and that no license will be issued; or the TERO Director at his discretion may issue a temporary license and allow the applicant time to clear any questions of the TERO Director concerning the applicant that may exist. If the character and business responsibility of the applicant are found to be satisfactory, the TERO Director shall recommend approval to the TERO Commission. If approved by the TERO Commission, the TERO Director shall endorse the license and deliver it to the applicant.
3. Upon approval of the application by the TERO Commission and payment of the fee, a business license shall be issued to the applicant on a form approved by the TERO Commission. The license shall be signed by the TERO Director or his authorized representative. The license shall specifically

describe the business or trade to be conducted, the name of the business, and the name of the owner or principal owners, and the location at which the business or trade will be conducted.

4. If an application for a license or permit is denied, the applicant is entitled to a hearing within ten (10) days of the denial. The hearing will be informal and with the TERO Director. If the denial is not reversed the applicant may appeal the denial through Title 22, Tribal Administrative Procedures Act.

18.0106 Persons engaging in more than one business.

Persons who engage in more than one business shall pay a fee and obtain a business license for each type of business. The TERO Director will have full discretion to determine if each business is non-integrated or separate and apart from the other, or if each business is one and the same.

18.0107 Jurisdiction.

All persons subject to the provisions of this Title shall be deemed to have consented to the full and exclusive jurisdiction of the Turtle Mountain Court as a condition of doing business within the boundaries of the Turtle Mountain Band of Chippewa jurisdiction. In any action in which the Tribal Court determines that the position of the TERO Director is substantially upheld, the licensee shall be liable for costs incurred by the Tribe including reasonable attorneys fees.

18.0108 License; Term.

1. Annual business license. No License or permit shall be granted for a longer period than one (1) year.
2. All annual business licenses are issued annually and must be renewed before due date of each calendar year.
3. Short term (temporary) Business License: A short term or temporary business license is any license issued for a period not to exceed three months.
4. Permit: A permit may be issued on a daily basis and for contractors as provided for in Section 18.0203 of this Title.
5. No license or permit shall be valid until signed and sealed, nor shall any person be deemed licensed until a license is duly issued to him by the TERO Director.
6. Each license shall be dated the day of issuance thereof, but if the applicant or applicants shall have been acting without a license, the license shall commence with the date business commenced; if the business calls for a yearly license then the license shall commence on the date of approval of the business for which the license shall be issued.
7. The date of issuance of the license, together with the time of commencing and expiration shall be specifically set forth by the license and license record.

18.0109 Transacting a business without a license.

1. A person, company, association, firm partnership or corporation conducting or engaging in any business within the Turtle Mountain jurisdiction without a valid business license shall be notified of their liability for the business license fee and shall be sent a notice for the amount due. The notice shall inform the person that no further business may be conducted on the Turtle Mountain Tribal land unless the person obtained a business license. There shall also be imposed a penalty of twenty-five dollars (\$25.00) per day, exclusive of any other provisions of this Title, upon any person for each day that his business is conducted without a valid tribal license. The TERO Director will determine when the business first started without a license.
2. If a person continues to conduct or engage in a business or trade without a business license, in addition to any other rights accorded by this Title

or Tribal Code, The TERO Director may institute an action in the Turtle Mountain Tribal Court to enjoin the activity until a business license is obtained. The court may also take such other action as is necessary to enforce the provisions of this Title, including imposing a penalty equal to the business license fee due along with costs and expenses.

18.0110 Complying with laws and regulations.

Any person or business operating within the jurisdiction of the Turtle Mountain Band of Chippewa shall comply with all laws and regulations of the Turtle Mountain Tribal Community.

18.0111 License; Not transferable.

No License or permit shall be assignable or transferable except by permission of the TERO Commission. No person other than the person to whom the license is granted shall be authorized to do business or act under such license at any other than the place specified therein. The TERO Commission may grant the continuance of the business licensed to any other portion of the Reservation, such permission to be certified on the license by the TERO Director. No license shall authorize any person to act under it at more than one (1) place at the same time, or at any other place than is therein specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

18.0112 Licenses; Revocation.

1. All licenses granted shall be subject to laws and regulations in force at the time of issuing thereof or which may be subsequently passed by the Tribal Council or TERO Commission. Any person who shall violate any provision of this Title relating to his license may be processed against for any fine or penalty imposed thereby, and his license may be revoked or forfeited in the discretion of the TERO Director, the TERO Commission or the Tribal Court if an action is brought for the recovery of any fine or penalty.

Where not otherwise provided, any license may be terminated or revoked by the TERO Director or the TERO Commission at any time for cause. "Cause" shall include, but not be limited to, the following:

- a. Violation of the Turtle Mountain Tribal Code dealing with or pertaining to the business or trade licensed;
- b. The willful making of any false statement or misrepresentation as to a material fact in the application for license;
- c. The death of a licensee;
- d. When the licensee ceases business at the location licensed;
- e. Conviction of any crime; or
- f. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a menace to the health, safety, or general welfare of the Tribe, or permitting any disorderly or immoral practices upon the premises where the licensee is licensed to carry on the business or trade.

When the license is terminated or revoked for cause, the licensee or those claiming under him shall not be entitled to any return of any portion of the license fee previously paid to the TERO Commission.

2. When a license is terminated or revoked it will be effective immediately, and the licensee is entitled to a hearing with the TERO Director within ten (10) days of termination or revocation.
3. Notice of the hearing for revocation of a license shall be given by the TERO Director in writing setting forth specifically the grounds for complaint and the time and place for hearing. Such notice shall be mailed to the licensee at his last known address at least forty-eight (48) hours prior to the date set for the hearing, or shall be delivered by a law enforcement officer in the same manner as a summons at least forty-eight

(48) hours prior to the date set for the hearing. The hearing will be informal and with the TERO Director. If the termination or revocation is not reversed, the licensee can appeal the decision through Title 22, Tribal Administrative Procedures Act.

18.0113 Licenses; Posting of.

All licenses and permits issued by the TERO Director for the operation of any business establishment, trade, or any part of the operation thereof, shall be posted in a conspicuous place in the main business area of the business establishment; where badges representing permits or licenses are issued to be worn by an individual, such licensee shall wear such badge during the normal course of employment for which said badge was issued.

18.0114 Licenses; Enforcement.

All Tribal officials having duties to perform with reference to licensed premises, including all police officers, shall have authority to enter the license premises with or without a search warrant to check for violations of Tribal laws by the licensee.

18.0115 License fee; Deposition of.

All license fees collected under this Title shall be transferable to the Finance Dept. of the Tribe and credited to the general fund of the Turtle Mountain Band of Chippewa Indians, unless otherwise provided in this Title.

18.0116 Violations; Criminal; Indian.

Unless otherwise provided in this Title, any person violating any of the provisions of this Title shall be guilty of an offense and shall be punished pursuant to Section 26.0601 of the Tribal Code.

18.0117 Violation; Punishment; Persons not subject to Turtle Mountain criminal jurisdiction.

Unless otherwise provided in this Title, persons determined not to be subject to Turtle Mountain Criminal jurisdiction violating any of the provisions of this Title shall be removed from the Reservation pursuant to Article IX, Section 4 of the Constitution and Bylaws of the Turtle Mountain Band of Chippewa Indians.

18.0118 Civil penalty.

Instead of proceeding under Sections 18.0116 or 18.0117 of this, or any other provisions provided by this Title, the TERO Director may assess a civil penalty against any person who he shall have probable cause to believe is in violation of this Title. Said civil penalty shall not be less than twenty-five dollars (\$25.00) per violation or per day of violation.

18.0119 License fees.

Every person or business issued or reissued a business license shall pay a license fee as follows:

1. Annual business license - \$150.00 per year;
2. Short term or temporary business license fee for members of Turtle Mountain - \$50.00 for any period up to 3 months;
3. Short term or temporary business license fee for non-members of Turtle Mountain - \$75.00 for any period up to 3 months; and
4. Short term or temporary business license fee for a period of one (1) day or less would be \$25.00 per day.

18.0120 Authorization for inspection of customer records.

1. Except as otherwise specifically provided by tribal law, any tribal governmental body (other than the Tribe itself), board, bureau, commission, utility, or agency, or any political subdivision of the Tribe, or organizations or agencies supported, in whole or in part, by tribal

funds or expending tribal funds, may not disclose customer information to any other person, tribal agency, or law enforcement agency unless disclosure is made in accordance with any of the following:

- a. Consent is granted by the customer in writing and signed by the customer;
- b. To a tribal agency, other governmental agency, or law enforcement agency pursuant to valid legal process.
- c. To any other person pursuant to valid legal process; or
- d. For the purposes of reporting a suspected violation of the law when the tribal entity reasonably believes that the customer is engaged in unlawful activity.

Customer information refers to any information derived from a customer's records.

2. Intentional violations of this section by a tribal agency or any other person, or a willful failure by the tribal agency or any other person to make these records available within ten (10) days after written authorization, or within the time limits prescribed by legal process, may result in a liability for an amount up to two hundred fifty dollars (\$250.00), plus attorneys fees incurred in any proceeding to enforce this section. Any tribal agency, or other person acting in good faith on any provision in this Section, may not be held liable to the customer or any other person.
3. Any agency or person requiring or requesting access to customer information shall make such request in writing, and pay to the tribal entity that assembles or provides the customer information reasonable costs incurred for supplying the information.

CHAPTER 18.02

Definitions

18.0201

Definitions.

1. "Business" includes all activities or acts, personal or corporate, engaged in with the object of gain, benefit, or advantage, either direct or indirect. For the purposes of this definition business does not include occasional or casual activities and sales. An occasional or casual activity occurs when a person engages in an isolated transaction that is not conducted with such frequency or is not one of a series of activities as to be sufficient to consider the person as regularly conducting the activity. "Business" shall include, but not be limited to:
 - a. Construction companies, contractors, repair services, or installation services;
 - b. manufacturing or industrial concerns;
 - c. retail and mercantile merchants;
 - d. Automobile service stations, garages, repair or body shops;
 - e. Retailer, wholesaler, manufacturer, contractors or any other business not located or having a place of business on the Turtle Mountain Reservation, but making sales and deliveries or providing services within the jurisdiction of the (Turtle Mountain Band of Chippewa Indians);
 - f. a farming or agricultural operation making use of land belonging to the Turtle Mountain Band of Chippewa, but shall not include such an operation primarily owned and operated by a tribal member of the Turtle Mountain Band of Chippewa;
 - g. Any casino, enterprise, amusement park, sports arena, or center which is open to the public and conducted for profit;
 - h. A motel, hotel, rooming house, trailer court, mobile home park, bowling alley, or Laundromat;
 - i. A restaurant, bar, café, or snack bar; or
 - j. Traveling merchants, food vendors, or peddlers.

2. "Contractor" means a person, firm, partnership, corporation, limited liability company or any of them, who undertakes to, or does himself, or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, irrigation system, excavation or other structure, project, development or improvement, or to do any part thereof, including the erecting of scaffolding, or other structure or works in connection therewith, and includes subcontractors.
3. "Person" includes an individual, officer, agent, company firm, partnership, joint venue, association, corporation, state, trust, or any other group or combination acting as unit, and shall include the singular and the plural.
4. "Short term or temporary business" shall include the same definition as under "business," but the business is only intended to be conducted for a limited duration of time, not to exceed three (3) months, and the person does not intend to become an annual yearly business.

18.0202 Bond.

As a condition of transacting business within the Turtle Mountain jurisdiction, the TERO Director may require a person or business to give a bond to TERO to secure the license provided for herein payable in the event that such a person fails to abide under the terms of this Title. Such bond shall be in the sum of not less than one hundred dollars (\$100), and not more than one thousand (\$1,000) with sureties to be approved by the TERO Commission.

18.0203 Contractor.

1. Any person desiring a permit as a contractor shall pay to the TERO Director a fee of twenty-five dollars (\$25.00). In the case of a construction contract, such permit shall be valid only for those construction contractors for which the permit was issued. The performance of an additional construction contract shall require an additional permit.
2. In the alternative, an applicant may apply for an annual contractor's license, and shall upon receipt of such license, pay to the TERO Director a fee of one hundred and fifty dollars (\$150.00). Such annual license permits the applicant to operate within the Turtle Mountain jurisdiction as a contractor for the period for which such license is issued, and shall permit the applicant to perform any number of construction contracts during such period.

CHAPTER 18.05

Licensure and Regulations of Child Care Centers

18.0501 Purposes and definition.

1. The purpose of this chapter is to secure the safety and well being of the children residing on the reservation or within Indian country who are under the supervision of a childcare center. This purpose shall be achieved by establishing standards for the licensure and regulation of all childcare centers operating within the jurisdiction of the Turtle Mountain Band of Chippewa Indians.
2. Definitions:
 - a. "Child Care Center" means an early childhood facility where early childhood services are provided to four (4) or more children for a fee.
 - b. "Parent" as used for the purposes of this Chapter only, means the natural parent, step-parent, grandparents, or legal guardian or temporary or permanent custodian of a minor child.

18.0502 Application form.

1. Application for an unrestricted license to operate a childcare center shall be made through the TERO office and in accordance with the

- reasonable requirements of that office. The fee for such license shall be established by TERO, subject to approval of the TERO Commission.
2. The TERO office shall develop and make available a standardized application for licensure. Such applications must include the following information at a minimum:
 - a. Business name, address, and phone number of child care center.
 - b. Statement of tribal fire authorities that center is in compliance with applicable fire code regulations;
 - c. Name, address, and telephone number of child care center operator;
 - d. Name, address, and telephone number of child care center director; and
 - e. Total area of childcare center measured in square feet.
 3. Should a licensed child care center or applicant for a child care license change ownership or location, a new application for licensure must be filed within thirty (30) days.

18.0503 Review of application.

1. The TERO office shall review all applications for childcare licensure. A representative of the TERO office shall visit the childcare center to view the facility, and interview the director and operator of the center. During such interview, such representative shall inquire about and determine that the minimum standards for licensure under this chapter are met by the center.
2. Within sixty (60) days after receipt of an application for licensure by TERO, the TERO Director shall recommend approval to the TERO Commission. If approved by the TERO Commission, the TERO Director shall endorse the license and deliver it to the applicant.
3. All decisions of the TERO Commission are final. No person denied a license shall be eligible to reapply for a period of three (3) months.

18.0504 Unrestricted child care license.

- An Unrestricted Child Care License shall contain the following information:
1. Name of center and operation;
 2. Date of issuance and signature of the designated tribal licensing office;
 3. The maximum number of children which may be cared for by the center;
 4. The center is in compliance with the minimum licensing requirements for child care centers set out under this Title; and
 5. The term of the license.

18.0505 Provisional license.

1. In the event the designated tribal licensing office determines that a childcare center has had inadequate time to comply with the requirements set out in this chapter, it may, in its discretion, issue a provisional child care license.
2. The Provisional License shall contain the following information:
 - a. Name of center and operator;
 - b. Date of issuance and signature of representative of designated tribal licensing office;
 - c. The center has failed to meet the minimum licensing requirements set out under Section 18.0130, but has been granted a one (1) year period of time in which to bring the center into compliance;
 - d. The maximum number of children which may be cared for by the center;
 - e. Each area of noncompliance has been documented by the designated tribal licensing office and a copy may be obtained by contacting the designated tribal licensing office;
 - f. The license expires automatically upon one year from the date of issuance; and
 - g. Upon proof of compliance with the minimum licensing requirements set out under Chapter 18, the center shall be issued an unrestricted child care license.

18.0506

Rights of provisional licensee.

1. An applicant receiving a provisional license has the right to:
 - a. Receive a written statement of all areas of the center, which are presently in noncompliance;
 - b. Receive a written statement of the rationale of the designated tribal licensing office for the denial of an unrestricted child care license; and
 - c. Appeal the denial of an unrestricted license to the TERO Commission within fifteen (15) days of the denial. The TERO Commission shall provide the applicant with notice and an informal hearing on the licensure before at least three (3) members of the TERO Commission within fifteen (15) days of receipt of the request for appeal.
2. A provisional license, subject to the exceptions contained in this chapter, entitles the licensee to all rights and privileges afforded the holder of an unrestricted childcare license. Receipt of a provisional license will be recognized by the Tribe as evidence of compliance with licensure requirements of this chapter.
3. The licensee must publicly post or display the provisional license in clear view of patrons of the childcare center.

18.0507

Minimum qualifications and duties of the operator of a child care center.

The operator shall be at least twenty-one (21) years of age.

1. The operator may be any person, firm, partnership, corporation, limited liability company or any entity as designated by the TERO Commission.
2. The operator must:
 - a. Ensure that the center is in compliance with all licensure standards set out in this Chapter;
 - b. Establish a child care program;
 - c. Apply for a child care license;
 - d. Develop and make available to parents, staff and the designated tribal licensing office, upon request, a plan for operation of the center, a policy of enrollment for children, and a statement of the rights and responsibilities of staff and parents;
 - e. Maintain records of enrollment, attendance, and health of the children and all other records required to be maintained under this Chapter;
3. The operator shall be responsible for all center staff volunteers and others providing services within the center.
4. Ensure that parents of children enrolled in the center are informed of the center's policies and procedures, including the center schedule and content of the child care programming, policy on discipline, and policy in the case of a child's illness or accident.
5. Develop a written agreement to govern the center's relationship with parents of children enrolled in the center which shall contain the amount of fees to be charged for care, the method of payment of those fees, and the center's policy, if any, on payment of delinquent fees. This written agreement should include information on any governmental or other childcare program in which the parent is enrolled. Examples of such programs include the Childcare Block Grant, the Cross Roads Program, and T.A.N.F. childcare program. The written agreement shall include the percentage of fees, which are paid for by the governmental or other program and the amount, which is the parent's responsibility.
6. Develop written policies governing the emergency medical care and treatment of children enrolled in the program, and policies providing for the care of children with special physical, emotional, or psychological needs.
7. Develop a written policy for assuring the care and safety of personal property of children enrolled in the center.
8. Comply with all North Dakota requirements for the mandatory reporting of suspected child abuse or neglect made applicable by this Title, and

develop a policy and procedure for the reporting of suspected abuse or neglect by staff.

9. Develop a schedule for employees of the center which ensures that a staff member with current C.P.R. certification, in accordance with the Turtle Mountain Tribal Code or North Dakota certification requirements, made applicable by this Title, is present in the center at all times when children are receiving care in the center.

18.0508

Minimum requirements for care givers employed in a licensed child care center.

1. The child care center shall maintain a record of all employees and volunteers of the center which shall contain the person's name, address, and phone number, and shall provide a copy of such to the designated tribal licensing office upon request.
2. All care givers employed or volunteering at a child care center shall certify to the designated tribal licensing office, within thirty (30) days of employment with a center, that he or she does not have a health problem which will interfere with the ability to provide adequate child care, or would be detrimental to the health of the children or center staff.
3. Any care giver or applicant for a position as a care giver with access to children enrolled at the center who has been arrested for, charged civilly or criminally with, or been convicted of child abuse or neglect of his or her own children, or those of another person, shall disclose that fact to the designated tribal licensing office and furnish, upon request, information demonstrating that the individual has the ability to provide satisfactory care to children enrolled in the center. The designated tribal licensing office may, at its discretion, require the caregiver or applicant provide it with copies of criminal and civil records, medical records, and other documentation normally accorded privilege or confidential status. If the designated tribal licensing office determines that the caregiver or applicant presents a potential threat to the safety or well being of the children enrolled in the center, it may prohibit that person from working in a licensed childcare center.

18.0509

Minimum standards for records maintained by center on children enrolled in center.

1. The following information shall be obtained and maintained for each child enrolled in the center, and shall be updated as necessary, and at least once annually:
 - a. Child's full name, birth date, and current address;
 - b. Name, address, phone number, place of employment, and business phone number of parent.
 - c. Names, addresses, phone numbers of all persons able to assume responsibility for the child in the event the parent cannot be reached in an emergency;
 - d. Written consent form signed by parent permitting emergency medical treatment of the child;
 - e. Signed authorization of the parent listing the names, addresses and telephone numbers of all persons authorized to take the child off the premises of the center.
 - f. Copies of written authorizations signed by the child's parent, which permit the center to dispense or administer medication, prescription or otherwise. The child's name must be printed on all prescription medication, and the container must bear written instructions containing dosage amount and frequency; and
 - g. Verification that the child's immunizations are current.
2. All information pertaining to the admission, progress, health, finances and discharge of the child care enrollee shall be confidential, and release of that information limited to the parent, the designated representative of the parent, and the child care center.

18.0510

Emergency plan requirement.

A center must have a plan demonstrating the ability to respond to emergency events, which must include the following:

1. Annual fire inspection completed by the tribal fire authorities;
2. Emergency response procedures, including a plan for emergency evacuation in the event of fire or other disaster, conspicuously posted in the center;
3. At least one (1) staff member present at all times when care is being provided to children, who has completed a minimum of five (5) hours of first-aid training;
4. At least one (1) approved first-aid kit maintained and kept in a designated location, which is inaccessible to children, yet readily accessible to staff.
5. Storage facility for medicine, which is inaccessible to children, yet readily accessible to staff, and appropriate for the storage of medicine.
6. Provision for transportation by an adult to a hospital or other facility in the event of an emergency, which adult must remain at the hospital or other facility until such time as the parent or other responsible adult designated by the parent can be reached to supervise the child's medical or other treatment.

18.0511

Sanitation and safety requirements.

1. The facility must have an annual health and sanitation inspection completed by an environmental health practitioner. All reports of such inspection shall be filed with the TERO office including a written explanation of how any problems identified in such report are to be corrected by the center.
2. The center's building, grounds and equipment must be maintained in a sanitary, safe and reasonable manner, and if located near a busy street, the yard must be fenced to protect the health and safety of children.
3. All center buildings erected prior to 1970 must be stripped and resurfaced so surfaces do not contain lead-bearing paint.
4. Indoor floors must not be slippery, and all steps and walkways must be kept clean and free from snow and ice. Stairs and/or porches must have rails.
5. There must be adequate ventilation and proper humidity, and a HVAC system capable of maintaining a temperature of not less than 68 degrees Fahrenheit, and not more than 20 degrees less than the outside temperature when such outside temperatures exceeds 88 degrees Fahrenheit.
6. Childcare center must be cleaned daily, and personal items such as toys, pacifiers, and combs must be stored in a sanitary manner.
7. Hazardous or poisonous substances must be kept in locked storage, and inaccessible to children.
8. Caregivers and staff shall wash hands before preparing or serving meals, after diapering, and after using bathroom facilities.
9. When food is prepared, served or stored in a childcare center, it will be done in a sanitary and safe manner.
10. Drinking water must be accessible to children, and hot water temperature in bathrooms must be no greater than one hundred twenty (120°) degrees Fahrenheit.
11. Bathroom must be cleaned daily, and located in separate rooms from those used for cooking, eating, and sleeping.
12. Centers shall take steps to keep the facility free of insects and rodents. Chemicals for insects and rodent control may not be available in areas accessible to children.
13. The minimum ratio of care givers or programs staff to children in child care centers shall be:
 - a. If all children in care are less than twenty-four (24) months of age, one (1) staff member per four (4) children.

- b. If all children in care are twenty-four (24) months of age to thirty-six (36) months of age, one (1) staff member per five (5) children.
 - c. If all children in care are three (3) years of age to four (4) years of age, one (1) staff member per seven (7) children.
 - d. If all children in care are four (4) years of age to five (5) years of age, one (1) staff member per ten (10) children.
 - e. If all children in care are five (5) years of age to six (6) years of age, one (1) staff member per twelve (12) children.
 - f. If all children in care are six (6) years of age to twelve (12) years of age, one (1) staff member per eighteen (18) children.
 - g. If children in care are of mixed age categories, the minimum ratio of care givers or staff to children shall be determined by calculating the average age of the children, and applying the corresponding ratio; however, in no event shall a single (1) care giver or staff member care for more than two (2) children twenty-four (24) months of age or younger, or more than four (4) thirty-six (36) months or younger at any one time.
14. These ratios shall apply to the total number of children present at the center at any one time and not the total number of children enrolled.

18.0512 **Minimum standards for food and nutrition.**

1. Food suppliers must be properly prepared, sufficient in amount, varied according to child's diet, and served at appropriate hours.
2. Staff must discuss with parents child's habits, activities, and special concerns about their children.
3. Each facility shall have a designated area where a child can sit quietly or lie down to rest.
4. No child shall be confined to a crib or playpen during the entire time at center.
5. Children shall never be shaken or jostled.
6. At no time shall infants be left unattended while feeding.
7. Physical discipline shall not be used by any staff or volunteer on the children. Children may not be locked in any room for disciplinary action.

18.0513 **Other regulations.**

Rules and regulations as defined in this document may be changed or added to according to need.

18.0514 **Revocation of a child care license.**

The TERO office may revoke a childcare center's license for noncompliance with any of the regulations set out in this chapter. The revocation of a childcare license, provisional or temporary, may be appealed to the TERO Commission. The child care center may continue to operate the child care center pending a determination by the TERO Commission, or until such time as the license expires of its own accord, whichever occurs first. A center may not appeal the expiration of a provisional license.

RESOLUTION NUMBER **TMBC338-06-19** OF THE DULY ELECTED AND CERTIFIED GOVERNING BODY OF THE TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

WHEREAS, the Turtle Mountain Band of Chippewa Indians, hereinafter referred to as the Tribe, is an unincorporated Band acting under a revised Constitution and By-Laws approved by the Secretary of the Interior on June 16th, 1959 and amendments thereto approved; and

WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and By-Laws empowers the Tribal Council with the authority to represent the Band and to negotiate with Federal, State, and Local Governments and with private persons; and

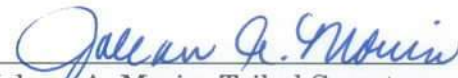
WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and Bylaws requires a 30-day comment period prior to the adoption of any ordinances or amendments to the Tribal Code, whether proposed by resolution or otherwise. Adoption must occur through a roll call vote of the Tribal Council at a publicly held meeting; and

WHEREAS, the Tribe is proposing to amend, add or delete various revisions to Title 32, the TERO Ordinance Sections 32.0403, 32.0408-A, 32.0408-B, 32.0408-C, 32.0501, 32.0502, 32.0503, 32.0201 and by the adoption of Resolution No. TMBC235-04-19, placed said proposed amendments out for public comment, with various comments received; now

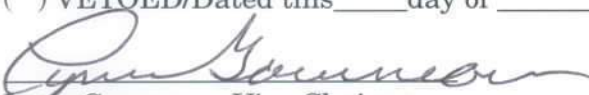
THEREFORE BE IT RESOLVED that the Tribe is approving the following amendments, additions or deletions to Title 32, TERO Ordinance Sections 32.0403, 32.0408-A, 32.0408-B, 32.0408-C, 32.0501, 32.0502, 32.0503, 32.0201 and to exclude geographical limitation of Rolette County.

CERTIFICATION

I, the undersigned Tribal Secretary of the Turtle Mountain Band of Chippewa Indians, do hereby certify that the Tribal Council is composed of **nine (9) members** of whom **seven (7)** constituting a quorum were present at a meeting duly called, convened and held on the **6th day of June, 2019** that the foregoing resolution was adopted by an affirmative vote of **six (6) in favor** – Representatives Stuart LaFountain, LoAnn Jerome, Chad Counts, Nathan Davis, Jim Baker and Ron Trottier Sr.; none (0) opposed; two (2) absent-the late Rep. Carson Belgarde and Chairman Jamie Azure; with the Vice-Chairman not voting.


Jolean A. Morin, Tribal Secretary
6/14/19

SIGNED INTO LAW/Dated this 14th day of June, 2019
 VETOED/Dated this _____ day of _____, 2019


Lynn Gourneau, Vice-Chairman


Jamie Azure, Tribal Chairman

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TITLE 32
TRIBAL EMPLOYMENT RIGHTS ORDINANCE

CHAPTER 32.01
General Provisions and Purpose

32.0101 Name.
This Ordinance shall be known as the Turtle Mountain Band of Chippewa Indians Tribal Employment Rights Ordinance.

32.0102 Findings.
It is the policy of the Turtle Mountain Tribal Council to promote employment opportunities for Indians and business opportunities for Indian firms and contractors, and to provide direction, management and business standards for the Turtle Mountain Indian Reservation. The work force of the Tribe must be given an opportunity to gain employment on or off the reservation and the Tribal council will promote that preference in harmony with congressional enactments giving Indians special employment rights. It is also the Council's responsibility to monitor Indian preference along with collecting from those doing business on the Turtle Mountain Indian Reservation a fair fee for that privilege. Thus, the Tribal Council has enacted and hereby amends an ordinance called "Tribal Employment Rights Ordinance (TERO)."

CHAPTER 32.02
Definitions

32.0201 Definitions.
Employers/contractors may seek clarification as to all TERO requirements and definitions at the pre-bid conference for any on-reservation construction project, or otherwise by directing inquiries to the Tribal TERO Commission.

1. "CHAIRMAN" shall mean the chairman of the Turtle Mountain Chippewa Tribal Employment Rights Commission.
2. "COMMISSION" shall mean the Turtle Mountain Chippewa Tribal Employment Rights Commission.
3. "COMMISSIONER" shall mean a Commissioner of the Turtle Mountain Chippewa Tribal Employment Rights Commission
4. "UNION" shall mean duly organized workers as recognized by any labor organization recognized as such under the national Labor Relations Act.
5. "COUNCIL" shall mean the Tribal Council of the Turtle Mountain Band of Chippewa Indians.
6. "TERO DIRECTOR" shall mean the individual hired by the Tribal Council to keep the Council, Commission, employees and employers informed of this Ordinance and its violations. The Director has authority to resolve informal disputes on behalf of the Commission.
7. "TERO" shall mean the Tribal Employment Rights Ordinance.
8. "EEOC" shall mean the Equal Employment Opportunities Commission of the United States.
9. "EMPLOYER" shall mean any person, business, company, contractor, subcontractor, or other entity located or engaged in work on the reservation, employing one or more persons, and without regard for whether the employer or its owner is Indian or Non-Indian or a member of the Turtle Mountain Band of Chippewa Indians or not. The term "Employer" excludes federal, state, county and tribal government, Tribally-owned or tribally-chartered private, for profit corporations are employers under this definition. Tribally owned or tribally chartered, non-profit corporations are employers under this definition. Tribally chartered or state chartered non-profit corporations authorized by the Tribe to contract with any federal agency pursuant to P.L. 93-638 or to enter into a grant agreement pursuant to P.L. 100-297 are employers under this definition. Tribally owned corporations are employers under this definition.

10. An employer is "ENGAGED IN BUSINESS ON THE RESERVATION" if in connection with any portion of a business enterprise or specific project, contract or subcontract, the employer or any of its employees or agents performing work within the exterior boundaries of the reservation. Employers who have both on-reservation and off-reservation business locations shall also be subject to the TERO in their off-reservation locations if those off-reservation locations are on lands adjacent to the reservation.
11. "Indian" shall mean any person recognized as an Indian by the United States Government pursuant to its trust responsibility. In complying with and implementing the TERO, following additional preferences shall be recognized and enforced.
12. Indians residing in Rolette County, North Dakota. Indians residing in other counties in the State of North Dakota.
13. Any Indian recognized by the U.S. Government pursuant to its trust responsibility wherever residing.
14. The terms "RESIDENCE" or "RESIDING" shall mean the place of domicile of an applicant on the date the applicant seeks employment or contracting preference under the TERO and resides within 90 days prior to such application. Domicile shall mean the place where an individual Indian has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning;
15. The term "INDIAN-OWNED BUSINESS" shall mean a business entity (in whatever form) of which at least 51% is owned by any federally recognized Indian Tribe or by Indians and which has been screened and certified as an "Indian-owned business" by the MBE/WBE office in Bismarck, North Dakota or the Indian Business Development Center in Bismarck. A copy of MBE/WBE certification will be furnished to the TERO Office.
16. The term "JOINT VENTURE" shall require that any Tribal member (s) or Tribe who enters a Joint Venture contract must control at least 51% of the Joint Venture and receive at least 51% of profits of the Joint venture. The Joint Venture shall show proof of Joint Venture to the TERO office by providing copies of ownership, state contractors license, bond and liability insurance. The Joint Venture must be certified and screened by the MBE/WBE office in Bismarck, North Dakota.
17. Any employer is "LOCATED ON THE RESERVATION" if in connection with any portion of a business enterprise or specific project contract or subcontract, he/she is doing business or performing work within the exterior boundaries of the reservation.
18. The term "OFCCP" shall mean the Office of Federal Contract Compliance Programs of the United States.
19. The term "RESERVATION" shall mean the Turtle Mountain Indian Reservation proper and all tribal land and trust property held by the U.S. Government for the Tribe in Rolette County, North Dakota, including all land within the exterior boundaries of said reservation proper and said tribal land and trust property.
20. The term "SECRETARY" shall mean the Secretary of the Interior or his duly authorized representative.
21. The term "TRIBE" shall mean the Turtle Mountain Band of Chippewa Indians.
22. "KEY POSITION" means an ongoing position where a person is a permanent employee for a period of one year prior to the contract and it is vital to the contractor's ability to perform the contract as he bid it or to the special operation of a crew familiar with each other in their duties to perform, that said person or persons be used on the project in said position(s).
23. MBE means "MINORITY BUSINESS ENTERPRISES". WBE means "WOMEN'S BUSINESS ENTERPRISE".
24. "INFORMAL DISPUTE RESOLUTION"; Clarifying and trying to remedy a situation without a hearing. (See 32.0702, 32.0703 and 32.0704)

CHAPTER 32.03

Turtle Mountain Chippewa Tribal Employment Rights Commission.

32.0301

Appointment.

The Turtle Mountain Chippewa Tribal Employment Rights Commission shall consist of one council member (and one alternate council member) appointed by the Tribal Council, four members appointed by the Tribal Council at large from the reservation community. Chairman of the board will be appointed by the Tribal Council. The alternate council member may vote in place of the appointed council member in the absence of that member.

32.0302

Term of office.

Commissioners shall hold office for a period of two years. Commissioners shall hold office after expiration of their terms of office until their successors are duly appointed and approved.

32.0303

Removal from office.

A Commissioner may be removed from office by the Tribal Council upon conviction of a crime, or for gross neglect of duty, misfeasance of malfeasance in office, or ineligibility to serve as a Commissioner or where the Commissioner misses three consecutive meeting without good cause. Specific written charges shall be prepared and served upon the Commissioner by the Tribal council at least ten days before a Council hearing upon the matter, and he shall be given an opportunity to answer to the charges at the hearing, before Tribal Council action. If the Commissioner refuses to appear before the Tribal Council, the Council shall nonetheless proceed to vote upon his removal. The decision of the Council shall be final.

32.0304

Vacancy and interim appointment.

If a Commissioner shall die, resign, be incapacitated or leave the reservation or be removed from office, the Tribal Council shall appoint an eligible person to fill the vacant position for the remainder of the term of the office of the Commissioner whose position it has to fill.

32.0305

Chairman.

The Chairman of the Commissioner shall be appointed by the Tribal Council and will be liaison between the Council and the Commission when needed.

32.0306

Duties of commission.

The Commission shall administer the employment rights program of the Turtle Mountain Band of Chippewa Indians in accordance with this Ordinance.

32.0307

Powers of commission.

The Commission shall have the power:

1. To establish rules and regulations governing all activities of the Commission, subject to prior approval of the Tribal Council.
2. To set minimum wage scale for construction employment at the beginning of each calendar year (see Section 32.014), subject to prior approval of the Tribal Council.
3. To expend operating funds appropriated by the Council for the use of the Turtle Mountain Chippewa Tribal Employment Rights Program.
4. To obtain funding from federal, state or other sources to supplement Council appropriations, subject to prior approval of the Tribal Council.
5. To impose numerical hiring goals and timetables, specifying the fair minimum number of Indians an employer may hire by craft or skill level.
6. To promote employers to establish or participate in such training programs as the Commission deems appropriate to increase the pool of Indian eligible for employment on the reservation.
7. To assist the TERO Director in administering a tribal hiring hall.
8. To require that employers may hire non-Indians for non-key positions only after the tribal hiring hall has certified that qualified Indians are unavailable to fill vacant job positions.

9. To prohibit employers from using job qualifications criteria a personnel requirement that bar Indians from employment unless such criteria or requirements are required by business necessity. Commission regulations may adopt EEOC guidelines or may adopt additional requirements to eliminate employment barriers unique to Indians and the reservation, subject to prior approval of the Tribal Council.
10. To enter into agreements with the unions to insure union compliance with the Ordinance.
11. To give preference to Tribal and other Indian-owned business in the award of contracts or subcontractors.
12. To establish counseling programs to assist Indians to retail employment.
13. To hold hearings and to subpoena witnesses and documents in accordance with this Ordinance.
14. To require employers to submit reports and take all actions deemed necessary by the Commission for the fair and vigorous implementation of this Ordinance.
15. To enter into cooperative agreements with federal employments rights agencies such as EEOC and OFCCP to eliminate discrimination against Indians both on and off the Reservation.
16. To take such other actions as deemed necessary to achieve the purpose and objectives of the Turtle Mountain Chippewa Tribal Employment Rights Program established in this Ordinance.

In exercising the above-specified powers, the Commission shall have the discretion to implement certain powers only or to apply one or more such powers to limited classes or numbers of employers.

CHAPTER 32.04

Turtle Mountain Chippewa Tribal Employment Rights Program

32.0401

Coverage.

All employers are required to give preference to equally qualified Indians and non-members married to an enrolled tribal member of one-quarter (1/4) or more degree of Indian blood, in hiring, promotion, training, and all other aspects of employment, contracting and subcontracting, and must comply with this Ordinance and the rules, regulations and orders of the Commission. The above requirements shall apply only to facilities or components or divisions of an employer located on or engaged in business on the reservation, or for employers who have both on-reservation and off-reservation business locations, the employer shall also be subject to this TERO in their off-reservation locations, if those off-reservation locations are on lands adjacent to the reservation.

32.0402

Contractors, subcontractors, and minority businesses.

The Indian preference requirements contained in the Ordinance shall be binding on all contractors, subcontractors, and minority businesses of employers, regardless of tier, shall be deemed a part of all resulting contract and specifications. The TERO Commission shall have the initial and primary responsibility for insuring that all contractors, subcontractors, and minority businesses comply with these requirements and contractors, subcontractors, and minority businesses shall be subject to penalties provided herein for violation of this Ordinance if the contractor or subcontractor, subcontractors, and minority businesses fails to comply.

32.0403

Minimum numerical goals and timetables for Indian employment.

The Commission will establish the minimum number of Indians, which each employer should employ on his work force during any year that he or any of his employees are located or engaged in work on the reservation. Noncompliance will require rational between employer and Commission. Numerical goals shall be set for each craft, skill area, classification, etc., used by the employer and shall include, but not be limited to,

administrators, supervisory, and professional categories. The goals shall be expressed in terms of number of Indian employment as a percentage of the total man hours worked by the employer's workforce in the job classification involved. Numerical goals shall be based upon surveys of the available Indian manpower pool and of projected employment opportunities. Both the TERO Director and the License Compliance/Employment Officer shall be involved in the formation of hiring goals for each employer.

1. For new employer, the goals shall meet with the Commission or Director as long before he actually begins work as possible and shall furnish the Commission with a precise list of the number, the kind of employees he expects to employ. The Commission or Director shall then set specific goals and timetables for the employer after considering any special factors or goals into his plan for complying with this Ordinance and shall agree in writing to meet these goals. Any employer who fails to provide such a written agreement to the TERO Commission shall not be permitted to commence work on the reservation.
2. For an existing employer on the reservation, the goals shall be a percentage of the new employees expected to be employed during the ensuing year. The employer shall incorporate the goals into his plan for complying with this Ordinance and shall agree in writing to meet these goals. Any employer who fails to provide such a written statement will not be permitted to commence work on the reservation. The TERO Commission shall maintain on file the current plan of each employer authorized to undertake work on the reservation.
3. For both new and existing employers, the goals shall be reviewed by the Commission at least annually and shall be revised as necessary to reflect changes in the number of Indians available or changes in employer hiring plans. Each employer shall submit a monthly report to the Director on a form provided by the employer, indicating the number of Indians in his work force, how close he is to meeting his goals, all persons hired or fired during the month, the job positions involved and other information required by the Commission.
4. Each employer shall meet his minimum goals for the employment of Indians. Whenever the Commission or Director has reason to believe that an employer is violating this Ordinance by not meeting his goals, the Commission or Director may file a complaint and notify the employer of the alleged violation pursuant to Chapter 32.07 of this Ordinance. The Commission shall bear the initial burden of providing that an employer has failed to or is failing to meet its goals. Upon a prima facie proof of such failure, the employer shall then bear the burden of proving that it has met or is meeting its goals or has made a good faith effort to meet its goals. It shall not be an excuse for such failure that the union with which the employer has a collective bargaining agreement providing for exclusive referral failed to refer Indians.

32.0404

Training.

Every employer shall be required by the Commission to participate in training programs to assist Indians to become qualified in the various job classifications used by the employer. Every employer shall employ the maximum number of Indian trainees or apprentices possible. The ratio of Indian trainees to fully qualified workers shall be set by the Commission after consultation with employer. For construction projects, the number of Indian trainees shall be no less than the minimum ratio established by the Department of Labor (one trainee for every four journeyman). Every employer with a collective bargaining agreement with a union shall be required to obtain agreement from the union to establish an advanced journeyman upgrade and apprenticeship program.

32.0405

Qualified and personnel requirements.

Every employer is prohibited for using job qualification criteria or personnel requirements which bar Indians from employment. The Commission

shall bear the initial burden of proving that a job qualification criterion or personnel requirements is not required by business necessity. Upon a prima facie proof that a job qualification or personnel criterion is not required necessity, employer shall then bear the burden of proving that it is. If that burden is not met, the employer will be required to eliminate the job qualification criterion or personnel acquisitions at issue. In implementing this section, the Commission shall be guided by principles established in the EEOC in order to eliminate employment barriers unique to Indians and the reservation. If the employer and the Commission or Director is unable to agree upon any matter in this section, the Commission may invoke the hearing procedure provided in Chapter 32.07 of this Ordinance.

32.0406

Tribal hiring hall.

The Commission shall establish and administer a tribal hiring hall to assist employers in identifying and hiring qualified Indians in job positions, employ and supervise a License Compliance/Employment Officer to oversee the hiring hall, labor survey, and employee referral functions under this ordinance. An employer may recruit and hire workers from whatever sources are available to it and by whatever process it chooses, provided that it may not hire a non-Indian until it has given the Commission or Director a reasonable time to locate a qualified Indian and the tribal hiring hall has certified that a qualified Indian is unavailable to fill the vacant job position.

For purpose of this Ordinance, "reasonable time" shall be defined as follows: Three (3) working days to locate and refer a qualified Indian. The Commission may grant a waiver of these time periods upon a showing by the employer that such time periods impose an undue burden upon it. An employer subject to a collective bargaining agreement with the union shall be exempt from this procedure if the union agrees to refer Indians from a listing supplied by the Commission or Director. However, if any union fails to meet this obligation to refer Indians to an employer, the Commission or Director may require the employer to accept Indian referrals from sources other than the union.

In administering a tribal hiring hall, a hiring list may be maintained by the License Compliance/Employment Officer. Individuals who desire to obtain employment in areas within the scope of this TERO Ordinance may enter their names on this hiring list. Names shall be entered in chronological order by the date and time of sign-up. The list may be utilized by the License Compliance/Employment Officer on a first come, first served basis in placing individuals of comparable skills in various crafts with various employers: Comparably skilled individuals shall be referred for placement in the order their names appear on the list.

If any non-Indian worker is found to be employed in a job in violation of this section, the employer shall be required by the Commission or Director to remove employee immediately and said employer shall be subject to the penalties in Chapter 32.08 of this Ordinance.

32.0407

Counseling and support programs.

The Commission will establish counseling and other support programs to assist Indians to retain employment. Every employee shall be required to cooperate with the Commission regarding such counseling and support programs.

32.0408

Preference in contracting and subcontracting.

Every employer shall give preference in the award of any contract or subcontract to Indian-Owned businesses, the names of which shall be supplied to the employer for their use. Employers shall be required to take every step feasible to identify or locate Indian-owned businesses. 10% preference will be given to qualified Indian-owned businesses. These businesses then must assume the responsibility of submitting timely bids or otherwise lose the right of being considered.

32.0409 Lay-offs.
In all lay-offs and reduction in force, no Indian worker shall be terminated if a non-Indian worker in the same job classification is still employed unless the termination is pursuant to a prior lay-off procedure agreed to by the Commission in writing. Unless otherwise agreed in advance per such lay-off procedure, the non-Indian must first be terminated if the Indian possesses the minimum qualifications for the job classification.

32.0410 Promotion.
Every employer shall give Indians preferential consideration for all promotion opportunities and shall encourage Indians to seek such opportunities. For every supervisory position filled by a non-Indian, the employer shall file a report with the Commission stating what efforts were made to inform Indian workers about the position, what Indians, if any, applied for the position, and the reasons why each Indian was not hired for the position.

32.0411 Summer students.
Every employer shall give Indian students preferential consideration for summer student employment. The employer shall make every effort to promote after school, summer and vacation employment for Indian students.

**CHAPTER 32.05
Fee Assessment**

32.0500 Fee assessment.
Fee Assessment to Provide Tribal Revenue and Operation of the Commission Pursuant to Article 9, Sections 3 and 4 of the Turtle Mountain Band of Chippewa Indian Constitution.

32.0501 Contractors, subcontractors and minority businesses.
Every contractor, subcontractor or business entity with a negotiated contract of \$10,000 including all change orders or more shall pay a one-time fee of 3% of the total amount of the contract. The fee will be paid in full when receiving first progress payment of within 45 days from date of award, or whichever comes later. This Ordinance shall apply, but not be limited to, the following categories of contractors, subcontractors or employers, Construction Contractors, Manufacturers, Materialmen and Suppliers. 3% will also apply to Professional Services, A/E Firms, Consultants and Legal Services, regardless of dollar amount.

32.0502 Accounting.
Fees shall be paid to the TERO Office and placed in the general account, and the council shall appropriate funds for use by the commission.

32.0503 Tribal business license.
Any person, employer, or vendor doing business in the reservation shall be required to obtain and maintain in force a tribal business license before any work will commence. All licenses are issued annually, and must be renewed before due date of each calendar year. Tribal business license applications will be obtained at the TERO Office. Fees will not apply for educational purposes, except for new construction, remodeling and demolition.

**CHAPTER 32.06
Compliance by Unions**

32.0600 Notice.
Every union with a collective bargaining agreement with an employer must file a written agreement stating that the union will comply with this Ordinance and the rules, regulations and orders of the Commission. Until such

agreement is filed with the Commission or Director, the employer may not commence work on the reservation.

32.0601 **Contents of union agreements.**

Every union agreement with an employer or filed with the Commission or Director must provide:

1. Indian Preference. The union will give absolute preference to Indian residents in job referrals regardless of which union referral list they are on.
2. Cooperation with Commission. The union will cooperate with the Commission or Director in all respects.
3. Registration. The union will establish a mechanism allowing Indians to register for job referral lists by telephone or mail.
4. Training Programs. The union will establish a journeyman upgrade and advanced apprenticeship program.
5. Include all Indians. The union will "include" all Indians who qualify for journeyman or apprenticeship status and wish to join the union.
6. Temporary Work Permits. The union will grant temporary work permits to Indians who do not wish to join the union.

32.0602 **Model union agreement.**

The employer will provide a model union agreement for use by all unions who have collective bargaining agreements with any employer.

32.0603 **Recognition of unions.**

Nothing herein or any activity by the Commission authorized hereby shall constitute official tribal recognition of any union or tribal endorsement of any union activities on the reservation. No union activities shall take place without prior approval of the Turtle Mountain Chippewa Tribal Council.

32.0604 **No waiver of sovereign immunity.**

Nothing in this Ordinance is a waiver of the Turtle Mountain Band of Chippewa Indian's sovereign immunity as against any person, agency or governmental entity including, but not limited to, the National Labor Relations Board and the Federal Office of Contract Compliance. Nothing in this Ordinance is a "consent to be sued" as defined by the Turtle Mountain Chippewa Tribal Code, Section. The Tribe's sovereign immunity also extends to members of the TERO Commission and Staff.

CHAPTER 32.07
Complaints and Hearings

32.0701 **Notice.**

If a hearing is requested by the Commission or Director, an individual employee, or union pursuant to this section, a written notice of hearing shall be given to all parties concerned of the nature, time and place of the hearing and the evidence to be presented, and shall advise such parties of their rights to be present at the hearing, to present any testimony of witness and other evidence to be represented by counsel at their own expense, and that the Commission may be represented by general counsel for the Turtle Mountain Chippewa Tribe.

32.0702 **Commission complaint and procedure.**

If the Commission or Director believes that an employer, contractor, subcontractor, or union has failed to comply with the Ordinance or any rules, regulations or orders of the Commission, it may file a complaint and notify such party of the alleged violations. The Commission or Director will attempt to achieve an informal settlement of the matter, but if an informal settlement cannot be achieved, the Commission or Director may request a hearing upon the matter pursuant Section 32.0701

32.0703

Individual complaint procedure.

If an Indian believes that an employer has failed to comply with this Ordinance or rules, regulation or orders of the Commission, or believes he/she has been discriminated against by an employer because he/she is an Indian, he/she may file a complaint in writing with the Director specifying the alleged violation. Upon receipt of the complaint, the Director shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the individual or Director may request a hearing upon the matter pursuant to Section 32.0701.

If an employer fires, lays off, or penalizes in any manner, an Indian employee who utilizes the individual complaint procedure provided herein or exercises any right provided herein, the employer shall be subject to the penalties in Chapter 32.08 of this Ordinance.

32.0704

Employer or union complaint procedure.

If an employer or union believes that any provision of this Ordinance or any rule, regulations or order of the Commission or Director is illegal or unclear, it may file a complaint in writing with the Director specifying the alleged illegality or error. Upon receipt of the complaint, the Director shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the employer, union or Commission may request a hearing upon the matter pursuant to Section 32.0701.

32.0705

Hearing procedure.

Hearing before the Commission shall be governed by the following rules of procedure:

1. All parties may present testimony of witnesses and other evidence and may be represented by counsel at their own expense.
2. The Commission shall be responsible for taping the proceedings and preserving such tapes and all pleading and physical evidence submitted at the hearing. These items shall constitute the record on appeal if any appeal should be taken after the hearing.
3. The Commission may have the advice and assistance at the hearing of general counsel for the Tribe.
4. The Chairman of the Commission or the Vice Chairman may preside. No formal rules of evidence of procedure need to be followed, but the Commission shall proceed to ascertain the facts in a reasonable and orderly fashion.
5. Any matter to be proven must be proven to the satisfaction of the Commission or by the preponderance of the evidence.
6. The hearing may be continued at the discretion of the Commission or Director.
7. At the final close of the hearing, the Commission may take immediate action or take the matter under advisement.
8. The Commission or Director shall notify all parties within 30 days after its decision in the matter.
9. The Commission may require the presence of persons and documents at the hearing by service of subpoena(s) issued by the Commission.
10. Any party leaving a scheduled meeting will be subject to entry of an adverse finding by default, unless authorized by the Commission.
11. Any party not appearing for a scheduled meeting will be subject to an adverse finding by default unless prior written approval must be submitted in writing to the Director.
12. Complaints must be filed within 30 days of incident with the TERO Office otherwise complaint will not be processed.

CHAPTER 32.08

Penalties for Violation

32.0801

Penalties for violation.

Any employer, contractor, subcontractor or union who violates this Ordinance or rules, regulations or orders of this Commission shall be subject to penalties for such violations, including, but not limited to:

1. Denial of right to commence or continue business inside the reservation or Adjacent Tribal Land.
2. Suspension of all operations inside the reservation.
3. Payment of back pay and damages to compensate any injured party.
4. An order to summarily remove employees hired in violation of this Ordinance or rules, regulations and orders of the Commission.
5. Imposition of monetary civil penalties.
6. Prohibition from engaging in any future operations on the reservation.
7. An order requiring employment, promotion and training of Indians injured by the violation.
8. An order requiring changes in procedures and policies necessary to eliminate the violation.
9. An order making any other provision deemed by the Commission necessary to eliminate violations.
10. The maximum civil penalty, which may be imposed, is \$500.00 for each violation. Each day during which a violation exists shall constitute a separate violation.
11. The Commission or Director may apply to the Tribal Court of the Turtle Mountain Band of Chippewa Indians for a judicial order or decree after notice and hearing to the other party or parties to enforce any final ruling or order of the Commission. The Tribal Court shall act on such requests on an expedited basis. The Tribal Court shall not have jurisdiction to re-examine the merits of any such Commission determination, but may grant, deny, or modify the relief sought as applicable law and equitable circumstances warrant.

CHAPTER 32.09

Appeals

32.0901

Appeals.

Any party to a Commission hearing shall have the right to appeal any decision, ruling or order of the Commission to the Tribal Court of Appeals of the Turtle Mountain Chippewa Tribe of the Turtle Mountain Indian Reservation, North Dakota. The Court of Appeals (with a law trained judge presiding) shall have jurisdiction to reverse, affirm or modify any Commission decision, order or ruling if such Court determines on the basis of the record made at the Commission hearing that the Commission action was (a) not supported by substantial evidence: or, (b) was clearly erroneous as a matter of law. Otherwise, the Commission decisions shall be affirmed.

CHAPTER 32.10

Tribal Training Program

32.1001

Tribal training program.

The Tribe shall appropriate such tribal funds necessary and available to establish training programs to prepare the tribal members for job opportunities developed pursuant to the Turtle Mountain Chippewa Tribal Employment Rights Ordinance. The Commission shall negotiate a training program in cooperation with employers, state, federal and tribal officials. Such programs shall follow applicable federal standards (if any).

CHAPTER 32.11

Publication of Ordinance

32.1101

Publication of ordinance.

The Commission or Director shall notify all employers of this Ordinance and their obligations to comply. All bid announcements issued by any tribal, federal, state or private or public entities shall contain a statement that

the successful bidder will be obligated to comply with this Ordinance and all rules, regulations and orders of the Commission.

The Tribal Council may issue business licenses to prospective employers planning to work on the reservation upon review and approval of the prospective employers business license application in conformity with applicable tribal law and procedure. The TERO office shall make available to the Council the name of each business to whom a tribal business license has been issued. The Commission shall advise such employer or prospective employers of their obligations under this Ordinance, rules, regulations and order of the Commission.

The Director shall send a copy of this Ordinance to every employer operating on the reservation and any amendments or revisions thereto. A small fee may be charged for this service.

CHAPTER 32.12 Compliance Plan

32.1201 Compliance plan.

As of the effective date of this Ordinance, no new employer may commence work on the reservation until it has been issued a license from the Tribe and consulted with the Commission or Director and developed a plan occupied by the Commission for meeting its obligations under this Ordinance.

CHAPTER 32.13 Reporting and On-Site Inspection

32.1301 Reporting and on-site inspection.

Employers shall submit reports and other information requested by the Director or Commission. The Director or his designee shall have the right to make on-site inspections during regular working hours in order to monitor any employer's compliance with this Ordinance and rules, regulations and orders of the Commission. The Director or his Designee shall have the right to inspect and copy all relevant records of any employer, of any signatory union or subcontractor of any employer and shall have a right to speak to workers and conduct an investigation on the job site. All information collected by the Director or his Designee shall be kept confidential unless disclosure is required during a hearing or appeal as provided in Chapter 32.07, 32.08 and 32.09.

CHAPTER 32.14 Tribal Minimum Wage Scale

Apprentice Bricklayer	17.00
Apprentice Electrician	16.00
Apprentice Plumber	16.00
Apprentice Sheet Metal	17.00
Asbestos Removal	16.00
Bricklayer	22.00
Carpet & Floor Tile Layer	16.00
Carpenter	18.00
Cement Finisher	19.00
Cleaning/Janitorial	12.50
Construction Foreman	20.00
Construction Worker/Labor	14.00
Drywall Hanger	17.00
Diesel Mechanic	20.00
Finish Carpenter	20.00
Flag Person	13.00
Foreman	19.00
Form Setter	18.00

Glazier	19.00
Heavy Equipment Operator (Heavy)	21.00
Heavy Equipment Operator (Light)	16.00
Heating/Air Conditioning	22.00
Inspector	22.00
Insulator	16.00
Journeyman Electrician	19.00
Journeyman Plumber	18.00
Journeyman Sheet Metal	19.00
Master Electrician	22.00
Master Plumber	22.00
Painter-brush-roller	16.00
Perfa-Taper	17.00
Pilot Car Driver	14.00
Pipe Fitter/Steam Sprinkler	18.00
Pipe Layer-Underground	16.00
Project Manager	25.00
Roofer-Asphalt/Shingles	16.00
Secretary	12.00
Security Guard	14.00
Spray Painter	18.00
Steel or Rod Buster	16.00
Structural Ironworker	22.00
Surveyor (Certified)	19.00
Surveyor Helper/Rodman	15.00
Tractor-Trailer Truck Driver (Diesel)	19.00
Truck Driver-Light	16.00
Welder-Light/Cutting Torch	16.00
Welder-Pipe/Heavy Iron	17.00

This is the most current Tribal minimum wage rates as of July 30, 2013. The tribal wage scale is subject to revision on an annual or other periodic basis by the Tribe. Employers may secure the most current rates from the TERO Director.

**CHAPTER 32.15
Severability**

32.1501 Severability.
If any provision of this Ordinance, or its application to any person or circumstances is held invalid, the remainder of the Ordinance, or the application of the provision to other persons or circumstances is not affected.

**CHAPTER 32.16
Relation to Federal Indian Preference Requirements**

32.1601 Relation to Federal Indian Preference Requirements.
The Tribal Indian preference requirements imposed by this Ordinance is separate from the supplemental to any and all applicable federal Indian preference requirements.

**CHAPTER 32.17
Special TERO Rules for Large Tribal Construction Projects**

32.1701 Special TERO rules for large Tribal construction projects.
For construction projects in amounts over \$500,000, where the Tribe, the Turtle Mountain Housing Authority or any other tribal agency or instrumentality solicits bids for section of one or more prime contractors, the following special TERO rules shall apply:
1. For all such projects which the entity soliciting bids for one or more prime construction contractors has appointed a project team to oversee the

- project the TERO Director shall serve as a non-voting member of the project team during the pre-bid and construction phases of the project.
2. For all such projects, the minimum numerical goals and timetables for Indian employment under Section 32.0403 for the prime contractor(s) and all subcontractors and the approved plan for how the contractor or subcontractors are to meet these goals under this ordinance shall not be finalized by the TERO Director or Commission or become legally effective until approved by the project team for that project, and no TERO enforcement proceedings (including the conduct of hearings under Section 32.0705 and the imposition of penalties under Chapter 32.08 or application for tribal court action there under) shall be initiated by the TERO Director or Commission as to said projects until cleared by the project team.
 3. All written requests for pre-bid interpretations of TERO requirements received by the TERO office on such projects shall be answered in writing by the TERO office or the Tribe's legal counsel for the project after clearance of said answers by the tribal project manager for the project.
 4. All day-to-day TERO office functions including, but not limited to, compliance review, hiring hall, labor survey, employee referral, hiring plan negotiations and other TERO efforts to secure TERO compliance through informal means, shall continue to apply to such projects as otherwise set out in this ordinance.

CHAPTER 32.18
Effective Date

32.1801

Effective date.

This Ordinance is a revision of Tribal Ordinance No. 32 approved July, 28, 1981. Provisions in this Ordinance regarding Indian Preference are continuous. This Ordinance as hereby amended supersedes any all prior resolutions and ordinances of the Turtle Mountain Band of Chippewa Indians to the extent of any conflict or inconsistency.



Tribal Employment Rights Office TERO

4180 HWY 281
P.O. BOX 900
BELCOURT, ND 58316

Ph:701-4772662 Jim
Fax:701-477-5134
Ph:701-477-2663 Sherry

COMPLIANCE / EMPLOYMENT PLAN

DATE: _____ PROJECT: _____ NUMBER: _____

GENERAL CONTRACTOR SUBCONTRACTOR

MAILING ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____

PHONE NUMBER: _____ CELL NUMBER: _____ FAX NUMBER: _____

ESTIMATE START DATE: _____ ESTIMATE COMPLETION DATE: _____

EMPLOYMENT NEEDS

	CLASSIFICATION:	TOTAL NUMBERS:
L	Skill Labor	
O	Laborer	
C	Flagger	
A	Pilot Car	
L	Carpenter	
	Finish Carpenter	
H	Cement Finisher	
I	Apprentice Plumber	
R	Master Plumber	
E	Apprentice Electrician	
S	Master Electrician	

	CLASSIFICATION:	TOTAL NUMBERS:
	Heavy Equipment Operator	
	Light Equipment Operator	
	CDL Truck Driver	
	Under Ground Pipe Layer	
	Asbestos Abatement Remover	
	Project Manager	
	Construction Inspector	
	Construction Foreman	
	Security Guard	
	Office Secretary	

TOTAL NUMBERS:

IDENTIFICATION AND CLASSIFICATION

	NAMES:	CLASSIFICATION / JOB TITLE:
C O R E	_____	_____
	_____	_____
	_____	_____
C R E W	_____	_____
	_____	_____
	_____	_____

CORE CREW DEFINITION: A member of a contractor or subcontractor's crew who is a regular, permanent employee and who is in a supervisory and other key position that the employer would face serious financial loss if that position were filled by a person who had not previously worked for that contractor or subcontractor. Core crew member must have worked for this employer for a period of one year prior to the award of this contract.

AUTHORIZED COMPANY OFFICIAL SIGNATURE

TITLE

TERO DIRECTOR

DATE

TRIBAL EMPLOYMENT RIGHTS OFFICE

P.O. BOX 900

TERO

BELCOURT, N.D. 58316

PHONE: (701) 477-2662 JIM PARI SIEN

FAX: (701) 477-5134

PHONE: (701) 477-2663 SHERRY BAKER

CONTRACTOR'S COMPLIANCE AGREEMENT

This Agreement is entered into on ____ Day of _____ 20____, between the Tribal Employment Rights Office and _____ hereafter referred to as "The Contractor" with due respect to employment practices on or near the Turtle Mountain Indian Reservation and adjacent tribal land and trust property held by the U.S. Government in Rolette County of North Dakota.

The Contractor also agrees by the signature below to comply with procedures, rules, regulations and orders set - forth by the Commissioners of the Tribal Employment Rights Office. The Contractor further agrees to provide preference to qualified Indian owned suppliers and minority owned businesses.

The Prime Contractor further agrees that all their Sub-Contractors and Suppliers will comply with the Tribal Employment Rights Ordinance to the fullest extent. The Prime Contractor will be held responsible to pay the 3% assessment TERO fee in full within forty-five (45) days of the original signed dated contract, otherwise a \$100.00 monetary fine per day will be imposed after 45 days of the above date.

Type of Project: _____.

Location of Project: _____.

Date of Bid: _____.

Type of Company: Prime, Yes _____, No _____. Sub-Contractor: Yes _____, No _____.

Amount of Contract: _____. Todays Date: ____ day of _____ 20__

List of Sub-Contractors

1. _____ 5. _____.

2. _____ 6. _____.

3. _____ 7. _____.

4. _____ 8. _____.

Owner or Contractor's Representative

TERO Director or Co-Director



Tribal Employment Rights Office

P. O. BOX 900
BELCOURT, NORTH DAKOTA 58316

Phone (701) 477-2663
or (701) 477-2662
Fax (701) 477-5134

ANNUAL BUSINESS LICENSE APPLICATION

APPLICANT INFORMATION

DATE _____ Applicant Name _____

SSN: _____

MAILING ADDRESS _____
STREET OR BOX # CITY STATE ZIP

Business Phone: _____

Are you a citizen of the U.S.? Yes No

Mobile: _____

Are you Native American? Yes No

FAX: _____

If yes, which Tribal affiliation? _____

Tribal Enrollment Number: _____

BUSINESS INFORMATION

Business Name: _____

Business Type(s): Manufacturing Wholesales Retail Contractor Services
 Day Care Services Other: _____

Give a description of services your business will provide:

OFFICE USE ONLY

Reference Checked Endorsements Checked License Fee Paid TERO Fees Current

Fire Inspection Complete - Verified by: _____ Date: _____

* Annual Business License Fee: \$300.00 for Enrolled Members; \$400.00 for Non-Enrolled Members. License Fee is Non-Refundable

----- OWNERSHIP -----

Federal ID No. _____

Type of Ownership: Sole Ownership Partnership Corporation

List names and addresses of owners / partners or corporate officer by their Titles: (also, list percentage of ownership)

Do any of the listed partners have ownership in any other firm(s)? Yes No

If so, what other firm(s): _____

----- LOCATION -----

Location of premises for which license is requested:

Legal description of the premises for which license is requested:

Has any person, other than applicant, any right, title, estate or interest in the premises for which license is requested? Yes No

----- Insurance, Licensing, Bonding, & Compliance -----

If applicable, do you have a State Contractor's License?

Yes No

Are you in full compliance with State Workmens Compensation?

Yes No

Are you currently compliant with Unemployment Insurance, FICA, etc.?

Yes No

Do you currently have liability insurance? Yes No

If yes, please submit a copy of insurance, otherwise your license **will not** be approved.

----- Environmental -----

Will your business have any affect on the environment? Yes No

If yes, please give details: _____

Give a description of services your business will provide:

Will your firm require hiring employees? Yes No

If yes, how many employees will be hired and will they be enrolled members of this tribe?

Will you commit yourself to the jurisdiction of the Turtle Mountain Tribal Court? Yes No

Are you taking over a previous business license? Yes No If yes, who were the former owners?

Have you had a previous business license with the Turtle Mountain Band of Chippewa? Yes No

If yes, give name and date of issuance and reason for new license request:

List five (5) benefits your business will provide to the local economy:

1.

2.

3.

4.

5.

List three (3) references:

Name:

Address:

Business Phone:

 Home Phone:

Name:

Address:

Business Phone:

 Home Phone:

Name:

Address:

Business Phone:

 Home Phone:

List three businesses which you have had, or plan on doing business with:

Name: _____

Address: _____

Business Phone: _____

Name: _____

Address: _____

Business Phone: _____

Name: _____

Address: _____

Business Phone: _____

I, the undersigned, swear that the information on this form is true to the best of my knowledge and belief, and acknowledge that false or misleading information is sufficient grounds for denial or revocation of license or authorization.

I also agree to provide a fire and safety inspection report prior to issuance of a business license and agree to abide by all laws of the Turtle Mountain Band of Chippewa and any future amendments of said laws.

I further agree, that any expansion of my firm will require me to apply for a new business license.

Applicants Signature

Date

STATE OF _____

COUNTY OF _____

_____, being first duly sworn, disposes and says application, that he/she is the applicant who is described in and who executed the foregoing and above application, that he/she has read each question and statement therein contained and knows the contents thereof, and that he/she had made the answers set forth in said application and that each one of said answered is true and to the best of his/her knowledge.

SEAL

Notary Public Signature

Subscribed and sworn before me on: _____

My Commission Expires: _____

SECTION 01 1000 - SUMMARY

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. Section Includes:

1. Project information.
2. Work covered by Contract Documents.
3. Phased construction.
4. Contractor's use of site and premises.
5. Coordination with occupants.
6. Work restrictions.
7. Specification and Drawing conventions.
8. Miscellaneous provisions.

- B. Related Requirements:

1. Section 01 5000 "Temporary Facilities and Controls" for limitations and procedures governing temporary use of Owner's facilities.
2. Section 01 7300 "Execution" for coordination of Owner-installed products.

1.3 DEFINITIONS

- A. Work Package: A group of specifications, drawings, and schedules prepared by the design team to describe a portion of the Project Work for pricing, permitting, and construction.

1.4 PROJECT INFORMATION

- A. Project Identification: Turtle Mountain Community College Concrete Pavement Replacement

1. Project Location: 10145 BIA Road 7, Belcourt, ND.

- B. Owner: Turtle Mountain Community College.

1. Owner's Representative: Kevin Morin, Facilities Manager.

- C. Architect: EAPC Architects Engineers.

1. Architect's Representative: Gloria Larsgaard, gloria.larsgaard@eapc.net, Telephone: (701) 839-4547.

D. Project Coordinator for the project shall be the General Contractor.

1.5 WORK COVERED BY CONTRACT DOCUMENTS

A. The Work of Project is defined by the Contract Documents and includes, but is not limited to, the following:

1. Replacement of exterior concrete pavement, asphalt pavement, and curbs as well as drainage improvements in various locations on the site of the Turtle Mountain Community College and other Work indicated in the Contract Documents.

B. Type of Contract:

1. Project will be constructed under a single prime contract.

1.6 PHASED CONSTRUCTION

1.7 Construct the Work in one phase. Coordinate sequence of work with the Owner, to allow student access to the facility. CONTRACTOR'S USE OF SITE AND PREMISES

A. Limits on Use of Site: Limit use of Project site to Work in areas indicated. Do not disturb portions of Project site beyond areas in which the Work is indicated.

1. Driveways, Walkways and Entrances: Keep driveways and entrances serving premises clear and available to Owner, Owner's employees, and emergency vehicles at all times. Do not use these areas for parking or for storage of materials.
 - a. Schedule deliveries to minimize use of driveways and entrances by construction operations.
 - b. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on-site.
2. Coordinate with the Owner work areas and student traffic.

B. Condition of Existing Grounds: Maintain portions of existing grounds, landscaping, and hardscaping affected by construction operations throughout construction period. Repair damage caused by construction operations.

1.8 COORDINATION WITH OCCUPANTS

A. Full Owner Occupancy: Owner will occupy Project site and existing adjacent building(s) during entire construction period. Cooperate with Owner during construction operations to minimize conflicts and facilitate Owner usage. Perform the Work so as not to interfere with Owner's day-to-day operations. Maintain existing exits unless otherwise indicated.

1. Maintain access to existing walkways, corridors, and other adjacent occupied or used facilities. Do not close or obstruct walkways, corridors, or other occupied or used facilities without written permission from Owner and approval of authorities having jurisdiction.
 2. Notify Owner not less than 72 hours in advance of activities that will affect Owner's operations.
- B. Owner Limited Occupancy of Completed Areas of Construction: Owner reserves the right to occupy and to place and install equipment in completed portions of the Work, prior to Substantial Completion of the Work, provided such occupancy does not interfere with completion of the Work. Such placement of equipment and limited occupancy shall not constitute acceptance of the total Work.
1. Architect will prepare a Certificate of Substantial Completion for each specific portion of the Work to be occupied prior to Owner acceptance of the completed Work.
 2. Obtain a Certificate of Occupancy from authorities having jurisdiction before limited Owner occupancy.
 3. Before limited Owner occupancy, mechanical and electrical systems shall be fully operational, and required tests and inspections shall be successfully completed. On occupancy, Owner will operate and maintain mechanical and electrical systems serving occupied portions of Work.
 4. On occupancy, Owner will assume responsibility for maintenance and custodial service for occupied portions of Work.

1.9 WORK RESTRICTIONS

- A. Comply with restrictions on construction operations.
1. Comply with limitations on use of public streets, work on public streets, rights of way, and other requirements of authorities having jurisdiction.
- B. On-Site Work Hours: Limit work to between 7 a.m. to 7 p.m., Monday through Friday, unless otherwise indicated. Work hours may be modified to meet Project requirements if approved by Owner and authorities having jurisdiction.
- C. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by Owner or others unless permitted under the following conditions and then only after arranging for temporary utility services according to requirements indicated:
1. Notify Architect not less than two days in advance of proposed utility interruptions.
 2. Obtain Owner's written permission before proceeding with utility interruptions.
- D. Noise, Vibration, Dust, and Odors: Coordinate operations that may result in high levels of noise and vibration, dust, odors, or other disruption to Owner occupancy with Owner.
1. Notify Architect not less than two days in advance of proposed disruptive operations.
 2. Obtain Architect's written permission before proceeding with disruptive operations.
- E. Smoking and Controlled Substance Restrictions: Use of tobacco products, alcoholic beverages, and other controlled substances on Owner's property is not permitted.

1.10 SPECIFICATION AND DRAWING CONVENTIONS

- A. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
1. Imperative mood and streamlined language are generally used in the Specifications. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.
 2. Text Color: Text used in the Specifications, including units of measure, manufacturer and product names, and other text may appear in multiple colors or underlined as part of a hyperlink; no emphasis is implied by text with these characteristics.
 3. Hypertext: Text used in the Specifications may contain hyperlinks. Hyperlinks may allow for access to linked information that is not residing in the Specifications. Unless otherwise indicated, linked information is not part of the Contract Documents.
 4. Specification requirements are to be performed by Contractor unless specifically stated otherwise.
- B. Division 00 Contracting Requirements: General provisions of the Contract, including General and Supplementary Conditions, apply to all Sections of the Specifications.
- C. Division 01 General Requirements: Requirements of Sections in Division 01 apply to the Work of all Sections in the Specifications.
- D. Drawing Coordination: Requirements for materials and products identified on Drawings are described in detail in the Specifications. One or more of the following are used on Drawings to identify materials and products:
1. Terminology: Materials and products are identified by the typical generic terms used in the individual Specifications Sections.
 2. Abbreviations: Materials and products are identified by abbreviations scheduled on Drawings and published as part of the U.S. National CAD Standard.
 3. Keynoting: Materials and products are identified by reference keynotes referencing Specification Section numbers found in this Project Manual.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 1000

SECTION 01 2200 - UNIT PRICES

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. Section includes administrative and procedural requirements for unit prices.
- B. Related Requirements:
 - 1. Section 01 2600 "Contract Modification Procedures" for procedures for submitting and handling Change Orders.
 - 2. Section 01 4000 "Quality Requirements" for field testing by an independent testing agency.

1.3 DEFINITIONS

- A. Unit price is a price per unit of measurement for materials, equipment, or services, or a portion of the Work, added to or deducted from the Contract Sum by appropriate modification, if the scope of Work or estimated quantities of Work required by the Contract Documents are increased or decreased.

1.4 PROCEDURES

- A. Unit prices include all necessary material, plus cost for delivery, installation, insurance, overhead, and profit.
- B. Measurement and Payment: See individual Specification Sections for work that requires establishment of unit prices. Methods of measurement and payment for unit prices are specified in those Sections.
- C. Owner reserves the right to reject Contractor's measurement of work-in-place that involves use of established unit prices and to have this work measured, at Owner's expense, by an independent surveyor acceptable to Contractor.
- D. List of Unit Prices: A schedule of unit prices is included in Part 3. Specification Sections referenced in the Part 3 "Schedule of Unit Prices" Article contain requirements for materials described under each unit price.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 SCHEDULE OF UNIT PRICES

A. Unit Price No. 1: Replacement of additional pavement beyond the scope of work.

1. Description: Remove and replace as/if directed additional pavement using details in the construction documents. Cost includes removal and disposal of existing sidewalk materials"
2. Unit of Measurement: Square Yard.

END OF SECTION 01 2200

SECTION 01 2500 - SUBSTITUTION PROCEDURES

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. Section includes administrative and procedural requirements for substitutions.
- B. Related Requirements:
 - 1. Section 00 3000 "Forms" for substitution form template.
 - 2. Section 01 6000 "Product Requirements" for requirements for submitting comparable product submittals for products by listed manufacturers.

1.3 DEFINITIONS

- A. Substitutions: Changes in products, materials, equipment, and methods of construction from those required by the Contract Documents.
 - 1. Substitutions for Cause: Changes proposed by Contractor that are required due to changed Project conditions, such as unavailability of product, regulatory changes, or unavailability of required warranty terms.
 - 2. Substitutions for Convenience: Changes proposed by Contractor or Owner that are not required to meet other Project requirements but may offer advantage to Contractor or Owner.

1.4 ACTION SUBMITTALS

- A. Substitution Requests: Submit documentation identifying product or fabrication or installation method to be replaced. Include Specification Section number and title and Drawing numbers and titles.
 - 1. Substitution Request Form: Use form provided in section 00 3000 "Forms".
 - 2. Documentation: Show compliance with requirements for substitutions and the following, as applicable:
 - a. Statement indicating why specified product or fabrication or installation method cannot be provided, if applicable.
 - b. Coordination of information, including a list of changes or revisions needed to other parts of the Work and to construction performed by Owner and separate contractors that will be necessary to accommodate proposed substitution.

- c. Detailed comparison of significant qualities of proposed substitutions with those of the Work specified. Include annotated copy of applicable Specification Section. Significant qualities may include attributes, such as performance, weight, size, durability, visual effect, sustainable design characteristics, warranties, and specific features and requirements indicated. Indicate deviations, if any, from the Work specified.
 - d. Product Data, including drawings and descriptions of products and fabrication and installation procedures.
 - e. Samples, where applicable or requested.
 - f. Certificates and qualification data, where applicable or requested.
 - g. List of similar installations for completed projects, with project names and addresses as well as names and addresses of architects and owners.
 - h. Material test reports from a qualified testing agency, indicating and interpreting test results for compliance with requirements indicated.
 - i. Research reports evidencing compliance with building code in effect for Project, from ICC-ES.
 - j. Detailed comparison of Contractor's construction schedule using proposed substitutions with products specified for the Work, including effect on the overall Contract Time. If specified product or method of construction cannot be provided within the Contract Time, include letter from manufacturer, on manufacturer's letterhead, stating date of receipt of purchase order, lack of availability, or delays in delivery.
 - k. Cost information, including a proposal of change, if any, in the Contract Sum.
 - l. Contractor's certification that proposed substitution complies with requirements in the Contract Documents, except as indicated in substitution request, is compatible with related materials and is appropriate for applications indicated.
 - m. Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of failure of proposed substitution to produce indicated results.
3. Architect's Action: If necessary, Architect will request additional information or documentation for evaluation within seven days of receipt of a request for substitution. Architect will notify Contractor of acceptance or rejection of proposed substitution within 15 days of receipt of request, or seven days of receipt of additional information or documentation, whichever is later.
- a. Forms of Acceptance: Change Order, Construction Change Directive, or Architect's Supplemental Instructions for minor changes in the Work.
 - b. Use product specified if Architect does not issue a decision on use of a proposed substitution within time allocated.

1.5 QUALITY ASSURANCE

- A. Compatibility of Substitutions: Investigate and document compatibility of proposed substitution with related products and materials. Engage a qualified testing agency to perform compatibility tests recommended by manufacturers.

1.6 PROCEDURES

- A. Coordination: Revise or adjust affected work as necessary to integrate work of the approved substitutions.

1.7 SUBSTITUTIONS

- A. Substitutions for Cause: Submit requests for substitution immediately on discovery of need for change, but not later than 15 days prior to time required for preparation and review of related submittals.

- 1. Conditions: Architect will consider Contractor's request for substitution when the following conditions are satisfied. If the following conditions are not satisfied, Architect will return requests without action, except to record noncompliance with these requirements:

- a. Requested substitution is consistent with the Contract Documents and will produce indicated results.
- b. Requested substitution meets sustainable design requirements.
- c. Substitution request is fully documented and properly submitted.
- d. Requested substitution will not adversely affect Contractor's construction schedule.
- e. Requested substitution has received necessary approvals of authorities having jurisdiction.
- f. Requested substitution is compatible with other portions of the Work.
- g. Requested substitution has been coordinated with other portions of the Work.
- h. Requested substitution provides specified warranty.
- i. If requested substitution involves more than one contractor, requested substitution has been coordinated with other portions of the Work, is uniform and consistent, is compatible with other products, and is acceptable to all contractors involved.

- B. Substitutions for Convenience: Not allowed unless otherwise indicated.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 2500

SECTION 01 2600 - CONTRACT MODIFICATION PROCEDURES

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. Section includes administrative and procedural requirements for handling and processing Contract modifications.
- B. Related Requirements:
 - 1. Section 01 2500 "Substitution Procedures" for administrative procedures for handling requests for substitutions made after the Contract award.
 - 2. Section 01 3100 "Project Management and Coordination" for requirements for forms for contract modifications provided as part of web-based Project management software.

1.3 MINOR CHANGES IN THE WORK

- A. Architect will issue supplemental instructions authorizing minor changes in the Work, not involving adjustment to the Contract Sum or the Contract Time, on AIA Document G710 Architect's Supplemental Instructions.

1.4 PROPOSAL REQUESTS

- A. Owner-Initiated Proposal Requests: Architect will issue a detailed description of proposed changes in the Work that may require adjustment to the Contract Sum or the Contract Time. If necessary, the description will include supplemental or revised Drawings and Specifications.
 - 1. Work Change Proposal Requests issued by Architect are not instructions either to stop work in progress or to execute the proposed change.
 - 2. Within time specified in Proposal Request after receipt of Proposal Request, submit a quotation estimating cost adjustments to the Contract Sum and the Contract Time necessary to execute the change.
 - a. Include a list of quantities of products required or eliminated and unit costs, with total amount of purchases and credits to be made. If requested, furnish survey data to substantiate quantities.
 - b. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
 - c. Include costs of labor and supervision directly attributable to the change.

- d. Include an updated Contractor'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.
 - e. Quotation Form: Use forms acceptable to Architect.
- B. Contractor-Initiated Proposals: If latent or changed conditions require modifications to the Contract, Contractor may initiate a claim by submitting a request for a change to Architect.
 - 1. Include a statement outlining reasons for the change and the effect of the change on the Work. Provide a complete description of the proposed change. Indicate the effect of the proposed change on the Contract Sum and the Contract Time.
 - 2. Include a list of quantities of products required or eliminated and unit costs, with total amount of purchases and credits to be made. If requested, furnish survey data to substantiate quantities.
 - 3. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
 - 4. Include costs of labor and supervision directly attributable to the change.
 - 5. Include an updated Contractor'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.
 - 6. Comply with requirements in Section 01 2500 "Substitution Procedures" if the proposed change requires substitution of one product or system for product or system specified.
 - 7. Proposal Request Form: Use form acceptable to Architect

1.5 CHANGE ORDER PROCEDURES

- A. On Owner's approval of a Work Change Proposal Request, Architect will issue a Change Order for signatures of Owner and Contractor on AIA Document G701.

1.6 CONSTRUCTION CHANGE DIRECTIVE

- A. Construction Change Directive: Architect may issue a Construction Change Directive on AIA Document G714. Construction Change Directive instructs Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order.
 - 1. Construction Change Directive contains a complete description of change in the Work. It also designates method to be followed to determine change in the Contract Sum or the Contract Time.
- B. Documentation: Maintain detailed records on a time and material basis of work required by the Construction Change Directive.
 - 1. After completion of change, submit an itemized account and supporting data necessary to substantiate cost and time adjustments to the Contract.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 2600

SECTION 01 2900 - PAYMENT PROCEDURES

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. Section includes administrative and procedural requirements necessary to prepare and process Applications for Payment.
- B. Related Requirements:
 - 1. Section 01 2200 "Unit Prices" for administrative requirements governing the use of unit prices.
 - 2. Section 01 2600 "Contract Modification Procedures" for administrative procedures for handling changes to the Contract.
 - 3. Section 01 3200 "Construction Progress Documentation" for administrative requirements governing the preparation and submittal of the Contractor's construction schedule.

1.3 DEFINITIONS

- A. Schedule of Values: A statement furnished by Contractor allocating portions of the Contract Sum to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

1.4 SCHEDULE OF VALUES

- A. Coordination: Coordinate preparation of the schedule of values with preparation of Contractor's construction schedule.
 - 1. Coordinate line items in the schedule of values with items required to be indicated as separate activities in Contractor's construction schedule.
 - 2. Submit the schedule of values to Architect at earliest possible date, but no later than seven days before the date scheduled for submittal of initial Applications for Payment.
 - 3. Sub-schedules for Phased Work: Where the Work is separated into phases requiring separately phased payments, provide sub-schedules showing values coordinated with each phase of payment.
 - 4. Sub-schedules for Separate Elements of Work: Where the Contractor's construction schedule defines separate elements of the Work, provide sub-schedules showing values coordinated with each element.
 - 5. Sub-schedules for Separate Design Contracts: Where the Owner has retained design professionals under separate contracts who will each provide certification of payment

requests, provide sub-schedules showing values coordinated with the scope of each design services contract, as described in Section 01 1000 "Summary."

- B. Format and Content: Use Project Manual table of contents as a guide to establish line items for the schedule of values. Provide at least one line item for each Specification Section.
1. Identification: Include the following Project identification on the schedule of values:
 - a. Project name and location.
 - b. Owner's name.
 - c. Owner's Project number.
 - d. Name of Architect.
 - e. Architect's Project number.
 - f. Contractor's name and address.
 - g. Date of submittal.
 2. Arrange schedule of values consistent with format of AIA Document G703.
 3. Arrange the schedule of values in tabular form, with separate columns to indicate the following for each item listed:
 - a. Related Specification Section or division.
 - b. Description of the Work.
 - c. Name of subcontractor.
 - d. Name of manufacturer or fabricator.
 - e. Name of supplier.
 - f. Change Orders (numbers) that affect value.
 - g. Dollar value of the following, as a percentage of the Contract Sum to nearest one-hundredth percent, adjusted to total 100 percent. Round dollar amounts to whole dollars, with total equal to Contract Sum.
 - 1) Labor.
 - 2) Materials.
 - 3) Equipment.
 4. Provide a breakdown of the Contract Sum in enough detail to facilitate continued evaluation of Applications for Payment and progress reports. Provide multiple line items for principal subcontract amounts in excess of five percent of the Contract Sum.
 5. Provide a separate line item in the schedule of values for each part of the Work where Applications for Payment may include materials or equipment purchased or fabricated and stored, but not yet installed.
 - a. Differentiate between items stored on-site and items stored off-site.
 6. Overhead Costs, Proportional Distribution: Include total cost and proportionate share of general overhead and profit for each line item.
 7. Temporary Facilities: Show cost of temporary facilities and other major cost items that are not direct cost of actual work-in-place as separate line items.
 8. Closeout Costs. Include separate line items under Contractor and principal subcontracts for Project closeout requirements in an amount totaling five percent of the Contract Sum and subcontract amount.

9. Schedule of Values Revisions: Revise the schedule of values when Change Orders or Construction Change Directives result in a change in the Contract Sum. Include at least one separate line item for each Change Order and Construction Change Directive.

1.5 APPLICATIONS FOR PAYMENT

- A. Each Application for Payment following the initial Application for Payment shall be consistent with previous applications and payments, as certified by Architect and paid for by Owner.
- B. Payment Application Times: The date for each progress payment is indicated in the Owner/Contractor Agreement. The period of construction work covered by each Application for Payment is the period indicated in the Agreement.
 1. Submit draft copy of Application for Payment seven days prior to due date for review by Architect.
- C. Application for Payment Forms: Use AIA Document G702 and AIA Document G703as form for Applications for Payment.
 1. Other Application for Payment forms proposed by the Contractor may be acceptable to Architect and Owner. Submit forms for approval with initial submittal of schedule of values.
- D. Application Preparation: Complete every entry on form. Notarize and execute by a person authorized to sign legal documents on behalf of Contractor. Architect will return incomplete applications without action.
 1. Entries shall match data on the schedule of values and Contractor's construction schedule. Use updated schedules if revisions were made.
 2. Include amounts for work completed following previous Application for Payment, whether or not payment has been received. Include only amounts for work completed at time of Application for Payment.
 3. Include amounts of Change Orders and Construction Change Directives issued before last day of construction period covered by application.
 4. Indicate separate amounts for work being carried out under Owner-requested project acceleration.
- E. Stored Materials: Include in Application for Payment amounts applied for materials or equipment purchased or fabricated and stored, but not yet installed. Differentiate between items stored on-site and items stored off-site.
 1. Provide certificate of insurance, evidence of transfer of title to Owner, and consent of surety to payment for stored materials.
 2. Provide supporting documentation that verifies amount requested, such as paid invoices. Match amount requested with amounts indicated on documentation; do not include overhead and profit on stored materials.
 3. Provide summary documentation for stored materials indicating the following:
 - a. Value of materials previously stored and remaining stored as of date of previous Applications for Payment.

- b. Value of previously stored materials put in place after date of previous Application for Payment and on or before date of current Application for Payment.
 - c. Value of materials stored since date of previous Application for Payment and remaining stored as of date of current Application for Payment.

- F. Transmittal: Submit signed and notarized original copies of each Application for Payment to Architect by a method ensuring receipt within 24 hours. One copy shall include waivers of lien and similar attachments if required.
 - 1. Transmit each copy with a transmittal form listing attachments and recording appropriate information about application.

- G. Initial Application for Payment: Administrative actions and submittals that must precede or coincide with submittal of first Application for Payment include the following:
 - 1. List of subcontractors.
 - 2. Schedule of values.
 - 3. Contractor's construction schedule (preliminary if not final).
 - 4. Combined Contractor's construction schedule (preliminary if not final) incorporating Work of multiple contracts, with indication of acceptance of schedule by each Contractor.
 - 5. Products list (preliminary if not final).
 - 6. Schedule of unit prices.
 - 7. Submittal schedule (preliminary if not final).
 - 8. List of Contractor's staff assignments.
 - 9. List of Contractor's principal consultants.
 - 10. Copies of building permits.
 - 11. Copies of authorizations and licenses from authorities having jurisdiction for performance of the Work.
 - 12. Initial progress report.
 - 13. Report of preconstruction conference.
 - 14. Certificates of insurance and insurance policies.
 - 15. Performance and payment bonds.
 - 16. Data needed to acquire Owner's insurance.

- H. Application for Payment at Substantial Completion: After Architect issues the Certificate of Substantial Completion, submit an Application for Payment showing 100 percent completion for portion of the Work claimed as substantially complete.
 - 1. Include documentation supporting claim that the Work is substantially complete and a statement showing an accounting of changes to the Contract Sum.
 - a. Complete administrative actions, submittals, and Work preceding this application, as described in Section 01 7700 "Closeout Procedures."
 - 2. This application shall reflect Certificate(s) of Substantial Completion issued previously for Owner occupancy of designated portions of the Work.

- I. Final Payment Application: After completing Project closeout requirements, submit final Application for Payment with releases and supporting documentation not previously submitted and accepted, including, but not limited, to the following:

1. Evidence of completion of Project closeout requirements.
2. Certification of completion of final punch list items.
3. Insurance certificates for products and completed operations where required and proof that taxes, fees, and similar obligations were paid.
4. Updated final statement, accounting for final changes to the Contract Sum.
5. AIA Document G706.
6. AIA Document G706A.
7. AIA Document G707.
8. Evidence that claims have been settled.
9. Final meter readings for utilities, a measured record of stored fuel, and similar data as of date of Substantial Completion or when Owner took possession of and assumed responsibility for corresponding elements of the Work.
10. Final liquidated damages settlement statement.
11. Proof that taxes, fees, and similar obligations are paid.
12. Waivers and releases.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 2900

SECTION 01 3100 - PROJECT MANAGEMENT AND COORDINATION

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. Section includes administrative provisions for coordinating construction operations on Project, including, but not limited to, the following:
 - 1. General coordination procedures.
 - 2. RFIs.
 - 3. Digital project management procedures.
 - 4. Project meetings.
- B. Each contractor shall participate in coordination requirements. Certain areas of responsibility are assigned to a specific contractor.
- C. Related Requirements:
 - 1. Section 01 3200 "Construction Progress Documentation" for preparing and submitting Contractor's construction schedule.
 - 2. Section 01 7300 "Execution" for procedures for coordinating general installation and field-engineering services, including establishment of benchmarks and control points.
 - 3. Section 01 7700 "Closeout Procedures" for coordinating closeout of the Contract.

1.3 DEFINITIONS

- A. BIM: Building Information Modeling.
- B. RFI: Request for Information. Request from Owner, Architect, or Contractor seeking information required by or clarifications of the Contract Documents.

1.4 INFORMATIONAL SUBMITTALS

- A. Subcontract List: Prepare a written summary identifying individuals or firms proposed for each portion of the Work, including those who are to furnish products or equipment fabricated to a special design. Include the following information in tabular form:
 - 1. Name, address, telephone number, and email address of entity performing subcontract or supplying products.
 - 2. Number and title of related Specification Section(s) covered by subcontract.
 - 3. Drawing number and detail references, as appropriate, covered by subcontract.

- B. Key Personnel Names: Within 15 days of starting construction operations, submit a list of key personnel assignments, including superintendent and other personnel in attendance at Project site. Identify individuals and their duties and responsibilities; list addresses, cellular telephone numbers, and e-mail addresses. Provide names, addresses, and telephone numbers of individuals assigned as alternates in the absence of individuals assigned to Project.
 - 1. Post copies of list in Project meeting room, in temporary field office, in web-based Project software directory, and in prominent location in each built facility. Keep list current at all times.

1.5 GENERAL COORDINATION PROCEDURES

- A. Coordination: Coordinate construction operations included in different Sections of the Specifications to ensure efficient and orderly installation of each part of the Work. Coordinate construction operations included in different Sections that depend on each other for proper installation, connection, and operation.
 - 1. Schedule construction operations in sequence required to obtain the best results, where installation of one part of the Work depends on installation of other components, before or after its own installation.
 - 2. Coordinate installation of different components to ensure maximum performance and accessibility for required maintenance, service, and repair.
 - 3. Make adequate provisions to accommodate items scheduled for later installation.
- B. Prepare memoranda for distribution to each party involved, outlining special procedures required for coordination. Include such items as required notices, reports, and list of attendees at meetings.
 - 1. Prepare similar memoranda for Owner and separate contractors if coordination of their Work is required.
- C. Administrative Procedures: Coordinate scheduling and timing of required administrative procedures with other construction activities and scheduled activities of other contractors to avoid conflicts and to ensure orderly progress of the Work. Such administrative activities include, but are not limited to, the following:
 - 1. Preparation of Contractor's construction schedule.
 - 2. Preparation of the schedule of values.
 - 3. Installation and removal of temporary facilities and controls.
 - 4. Delivery and processing of submittals.
 - 5. Progress meetings.
 - 6. Preinstallation conferences.
 - 7. Project closeout activities.
 - 8. Startup and adjustment of systems.

1.6 REQUEST FOR INFORMATION (RFI)

- A. General: Immediately on discovery of the need for additional information, clarification, or interpretation of the Contract Documents, Contractor shall prepare and submit an RFI in the form specified.
1. Architect will return without response those RFIs submitted to Architect by other entities controlled by Contractor.
 2. Coordinate and submit RFIs in a prompt manner to avoid delays in Contractor's work or work of subcontractors.
- B. Content of the RFI: Include a detailed, legible description of item needing information or interpretation and the following:
1. Project name.
 2. Owner name.
 3. Owner's Project number.
 4. Name of Architect.
 5. Architect's Project number.
 6. Date.
 7. Name of Contractor.
 8. RFI number, numbered sequentially.
 9. RFI subject.
 10. Specification Section number and title and related paragraphs, as appropriate.
 11. Drawing number and detail references, as appropriate.
 12. Field dimensions and conditions, as appropriate.
 13. Contractor's suggested resolution. If Contractor's suggested resolution impacts the Contract Time or the Contract Sum, Contractor shall state impact in the RFI.
 14. Contractor's signature.
 15. Attachments: Include sketches, descriptions, measurements, photos, Product Data, Shop Drawings, coordination drawings, and other information necessary to fully describe items needing interpretation.
 - a. Include dimensions, thicknesses, structural grid references, and details of affected materials, assemblies, and attachments on attached sketches.
- C. RFI Forms: The following forms are acceptable: AIA Document G716. Software-generated form with substantially the same content as indicated above, acceptable to Architect.
1. Attachments shall be electronic files in PDF format.
- D. Architect's Action: Architect will review each RFI, determine action required, and respond. Allow seven working days for Architect's response for each RFI. RFIs received by Architect after 1:00 p.m. will be considered as received the following working day.
1. The following Contractor-generated RFIs will be returned without action:
 - a. Requests for approval of submittals.
 - b. Requests for approval of substitutions.
 - c. Requests for approval of Contractor's means and methods.

- d. Requests for coordination information already indicated in the Contract Documents.
 - e. Requests for adjustments in the Contract Time or the Contract Sum.
 - f. Requests for interpretation of Architect's actions on submittals.
 - g. Incomplete RFIs or inaccurately prepared RFIs.
- 2. Architect's action may include a request for additional information, in which case Architect's time for response will date from time of receipt by Architect of additional information.
 - 3. Architect's action on RFIs that may result in a change to the Contract Time or the Contract Sum may be eligible for Contractor to submit Change Proposal according to Section 01 2600 "Contract Modification Procedures."
 - a. If Contractor believes the RFI response warrants change in the Contract Time or the Contract Sum, notify Architect in writing within 5 days of receipt of the RFI response.
- E. RFI Log: Prepare, maintain, and submit a tabular log of RFIs organized by the RFI number. Submit log at each construction meeting. Include the following:
- 1. Project name.
 - 2. Name and address of Contractor.
 - 3. Name and address of Architect.
 - 4. RFI number, including RFIs that were returned without action or withdrawn.
 - 5. RFI description.
 - 6. Date the RFI was submitted.
 - 7. Date Architect's response was received.
 - 8. Identification of related Minor Change in the Work, Construction Change Directive, and Proposal Request, as appropriate.
 - 9. Identification of related Field Order, Work Change Directive, and Proposal Request, as appropriate.
- F. On receipt of Architect's action, update the RFI log and immediately distribute the RFI response to affected parties. Review response and notify Architect within seven days if Contractor disagrees with response.

1.7 DIGITAL PROJECT MANAGEMENT PROCEDURES

- A. Use of Architect's Digital Data Files: Digital data files of Architect's CAD drawings will be provided by Architect for Contractor's use during construction.
- 1. Digital data files may be used by Contractor in preparing coordination drawings, Shop Drawings, and Project Record Drawings.
 - 2. Architect makes no representations as to the accuracy or completeness of digital data files as they relate to Contract Drawings.
 - 3. Digital Drawing Software Program: Contract Drawings are available in AUTOCAD.
 - 4. Contractor shall execute a data licensing agreement found in the project manual.

- a. Subcontractors and other parties granted access by Contractor to Architect's digital data files shall execute a data licensing agreement in the form of AIA Document C106.
- B. PDF Document Preparation: Where PDFs are required to be submitted to Architect, prepare as follows:
1. Assemble complete submittal package into a single indexed file, incorporating submittal requirements of a single Specification Section and transmittal form with links enabling navigation to each item.
 2. Name file with submittal number or other unique identifier, including revision identifier.
 3. Certifications: Where digitally submitted certificates and certifications are required, provide a digital signature with digital certificate on where indicated.

1.8 PROJECT MEETINGS

- A. General: The General Contractor is to Schedule and conduct meetings and conferences at Project site unless otherwise indicated.
1. Attendees: Inform participants and others involved, and individuals whose presence is required, of date and time of each meeting. Notify Owner and Architect of scheduled meeting dates and times a minimum of seven days prior to meeting.
 2. Agenda: Prepare the meeting agenda. Distribute the agenda to all invited attendees.
 3. Minutes: Entity responsible for conducting meeting will record significant discussions and agreements achieved. Distribute the meeting minutes to everyone concerned, including Owner and Architect, within three days of the meeting.
- B. Preconstruction Conference: Architect will schedule and conduct a preconstruction conference before starting construction, at a time convenient to Owner and Architect, but no later than 15 days after execution of the Agreement.
1. Attendees: Authorized representatives of Owner Architect, and their consultants; Contractor and its superintendent; major 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.
 2. Agenda: Discuss items of significance that could affect progress, including the following:
 - a. Responsibilities and personnel assignments.
 - b. Tentative construction schedule.
 - c. Phasing.
 - d. Critical work sequencing and long lead items.
 - e. Designation of key personnel and their duties.
 - f. Lines of communications.
 - g. Procedures for processing field decisions and Change Orders.
 - h. Procedures for RFIs.
 - i. Procedures for testing and inspecting.
 - j. Procedures for processing Applications for Payment.
 - k. Distribution of the Contract Documents.
 - l. Submittal procedures.
 - m. Preparation of Record Documents.

- n. Use of the premises and or existing building.
 - o. Work restrictions.
 - p. Working hours.
 - q. Owner's occupancy requirements.
 - r. Responsibility for temporary facilities and controls.
 - s. Procedures for moisture and mold control.
 - t. Procedures for disruptions and shutdowns.
 - u. Construction waste management and recycling.
 - v. Parking availability.
 - w. Office, work, and storage areas.
 - x. Equipment deliveries and priorities.
 - y. First aid.
 - z. Security.
 - aa. Progress cleaning.
3. Minutes: Entity responsible for conducting meeting will record and distribute meeting minutes.
- C. Project Closeout Conference: Schedule and conduct a project closeout conference, at a time convenient to Owner and Architect, but no later than 30 days prior to the scheduled date of Substantial Completion.
- 1. Conduct the conference to review requirements and responsibilities related to Project closeout.
 - 2. Attendees: Authorized representatives of Owner, Architect, and their consultants; Contractor and its superintendent; major subcontractors; suppliers; and other concerned parties shall attend the meeting. Participants at the meeting shall be familiar with Project and authorized to conclude matters relating to the Work.
 - 3. Agenda: Discuss items of significance that could affect or delay Project closeout, including the following:
 - a. Preparation of Record Documents.
 - b. Procedures required prior to inspection for Substantial Completion and for final inspection for acceptance.
 - c. Procedures for completing and archiving web-based Project software site data files.
 - d. Submittal of written warranties.
 - e. Requirements for completing sustainable design documentation.
 - f. Requirements for preparing operations and maintenance data.
 - g. Requirements for delivery of material samples, attic stock, and spare parts.
 - h. Requirements for demonstration and training.
 - i. Preparation of Contractor's punch list.
 - j. Procedures for processing Applications for Payment at Substantial Completion and for final payment.
 - k. Submittal procedures.
 - l. Coordination of separate contracts.
 - m. Owner's partial occupancy requirements.
 - n. Installation of Owner's furniture, fixtures, and equipment.
 - o. Responsibility for removing temporary facilities and controls.
 - 4. Minutes: Entity conducting meeting will record and distribute meeting minutes.

- D. Progress Meetings: Conduct progress meetings at regular intervals.
1. Coordinate dates of meetings with preparation of payment requests.
 2. Attendees: In addition to representatives of Owner and Architect, each contractor, subcontractor, supplier, and other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the meeting shall be familiar with Project and authorized to conclude matters relating to the Work.
 3. Agenda: Review and correct or approve minutes of previous progress meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.
 - a. Contractor's Construction Schedule: Review progress since the last meeting. Determine whether each activity is on time, ahead of schedule, or behind schedule, in relation to Contractor's construction schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
 - 1) Review schedule for next period.
 - b. Review present and future needs of each entity present, including the following:
 - 1) Interface requirements.
 - 2) Sequence of operations.
 - 3) Resolution of BIM component conflicts.
 - 4) Status of submittals.
 - 5) Status of sustainable design documentation.
 - 6) Deliveries.
 - 7) Off-site fabrication.
 - 8) Access.
 - 9) Site use.
 - 10) Temporary facilities and controls.
 - 11) Progress cleaning.
 - 12) Quality and work standards.
 - 13) Status of correction of deficient items.
 - 14) Field observations.
 - 15) Status of RFIs.
 - 16) Status of Proposal Requests.
 - 17) Pending changes.
 - 18) Status of Change Orders.
 - 19) Pending claims and disputes.
 - 20) Documentation of information for payment requests.
 4. Minutes: Entity responsible for conducting the meeting will record and distribute the meeting minutes to each party present and to parties requiring information.
 - a. Schedule Updating: Revise Contractor's construction schedule after each progress meeting, where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with the report of each meeting.

- E. Coordination Meetings: Conduct project coordination meetings at appropriate intervals. Project coordination meetings are in addition to specific meetings held for other purposes, such as progress meetings and preinstallation conferences.
1. Attendees: each contractor, subcontractor, supplier, and other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the meetings shall be familiar with Project and authorized to conclude matters relating to the Work.
 2. Agenda: Review and correct or approve minutes of the previous coordination meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.
 - a. Combined Contractor's Construction Schedule: Review progress since the last coordination meeting. Determine whether each contract is on time, ahead of schedule, or behind schedule, in relation to combined Contractor's construction schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
 - b. Schedule Updating: Revise combined Contractor's construction schedule after each coordination meeting, where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with report of each meeting.
 - c. Review present and future needs of each contractor present, including the following:
 - 1) Interface requirements.
 - 2) Sequence of operations.
 - 3) Resolution of BIM component conflicts.
 - 4) Status of submittals.
 - 5) Deliveries.
 - 6) Off-site fabrication.
 - 7) Access.
 - 8) Site use.
 - 9) Temporary facilities and controls.
 - 10) Work hours.
 - 11) Hazards and risks.
 - 12) Progress cleaning.
 - 13) Quality and work standards.
 - 14) Status of RFIs.
 - 15) Proposal Requests.
 - 16) Change Orders.
 - 17) Pending changes.
 3. Reporting: Record meeting results and distribute copies to everyone in attendance and to others affected by decisions or actions resulting from each meeting.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 3100

SECTION 01 3200 - CONSTRUCTION PROGRESS DOCUMENTATION

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. Section includes administrative and procedural requirements for documenting the progress of construction during performance of the Work, including the following:
 - 1. Startup construction schedule.
 - 2. Contractor's Construction Schedule.
 - 3. Construction schedule updating reports.
 - 4. Site condition reports.
 - 5. Unusual event reports.
- B. Related Requirements:
 - 1. Section 01 2900 "Payment Procedures" for schedule of values and requirements for use of cost-loaded schedule for Applications for Payment.
 - 2. Section 01 4000 "Quality Requirements" for schedule of tests and inspections.

1.3 DEFINITIONS

- A. Activity: A discrete part of a project that can be identified for planning, scheduling, monitoring, and controlling the construction Project. Activities included in a construction schedule consume time and resources.
 - 1. Critical Activity: An activity on the critical path that must start and finish on the planned early start and finish times.
 - 2. Predecessor Activity: An activity that precedes another activity in the network.
 - 3. Successor Activity: An activity that follows another activity in the network.
- B. Cost Loading: The allocation of the schedule of values for completing an activity as scheduled. The sum of costs for all activities must equal the total Contract Sum.
- C. CPM: Critical path method, which is a method of planning and scheduling a construction project where activities are arranged based on activity relationships. Network calculations determine the critical path of Project and when activities can be performed.
- D. Critical Path: The longest connected chain of interdependent activities through the network schedule that establishes the minimum overall Project duration and contains no float.

- E. Event: The starting or ending point of an activity.
- F. Float: The measure of leeway in starting and completing an activity.
 - 1. Float time is not for the exclusive use or benefit of either Owner or Contractor, but is a jointly owned, expiring Project resource available to both parties as needed to meet schedule milestones and Contract completion date.
 - 2. Free float is the amount of time an activity can be delayed without adversely affecting the early start of the successor activity.
 - 3. Total float is the measure of leeway in starting or completing an activity without adversely affecting the planned Project completion date.
- G. Resource Loading: The allocation of manpower and equipment necessary for completing an activity as scheduled.

1.4 INFORMATIONAL SUBMITTALS

- A. Format for Submittals: Submit required submittals in the following format:
 - 1. PDF file.
 - 2. Three (3) paper copies, of sufficient size to display entire period or schedule, as required.
- B. Contractor's Construction Schedule: Initial schedule, of size required to display entire schedule for entire construction period.
- C. Construction Schedule Updating Reports: Submit with Applications for Payment.
- D. Site Condition Reports: Submit at time of discovery of differing conditions.

1.5 COORDINATION

- A. Coordinate Contractor's Construction Schedule with the schedule of values, list of subcontracts, submittal schedule, progress reports, payment requests, and other required schedules and reports.
 - 1. Secure time commitments for performing critical elements of the Work from entities involved.
 - 2. Coordinate each construction activity in the network with other activities, and schedule them in proper sequence.

1.6 CONTRACTOR'S CONSTRUCTION SCHEDULE

- A. Time Frame: Extend schedule from date established for commencement of the Work to date of Final Completion.
 - 1. Contract completion date shall not be changed by submission of a schedule that shows an early completion date, unless specifically authorized by Change Order.

- B. Activities: Treat each floor or separate area as a separate numbered activity for each main element of the Work. Comply with the following:
1. Activity Duration: Define activities so no activity is longer than 20 days, unless specifically allowed by Architect.
 2. Procurement Activities: Include procurement process activities for the following long lead-time items and major items, requiring a cycle of more than 60 days, as separate activities in schedule. Procurement cycle activities include, but are not limited to, submittals, approvals, purchasing, fabrication, and delivery.
 3. Submittal Review Time: Include review and resubmittal times indicated in Section 01 3300 "Submittal Procedures" in schedule. Coordinate submittal review times in Contractor's Construction Schedule with submittal schedule.
 4. Startup and Testing Time: Include no fewer than 15 days for startup and testing.
 - 5.
 6. Substantial Completion: Indicate completion in advance of date established for Substantial Completion, and allow time for Architect's administrative procedures necessary for certification of Substantial Completion.
 7. Punch List and Final Completion: Include not more than 30 days for completion of punch list items and Final Completion.
- C. Constraints: Include constraints and work restrictions indicated in the Contract Documents and as follows in schedule and show how the sequence of the Work is affected.
- D. Milestones: Include milestones indicated in the Contract Documents in schedule, including, but not limited to, the Notice to Proceed, Substantial Completion, and Final Completion.
- E. Contractor's Construction Schedule Updating: At monthly intervals, update schedule to reflect actual construction progress and activities. Issue schedule before each regularly scheduled progress meeting.
1. Revise schedule immediately after each meeting or other activity where revisions have been recognized or made. Issue updated schedule concurrently with the report of each such meeting.
- F. Recovery Schedule: When periodic update indicates the Work is 14 or more calendar days behind the current approved schedule, submit a separate recovery schedule indicating means by which Contractor intends to regain compliance with the schedule
- G. Distribution: Distribute copies of approved schedule to Architect Owner, separate contractors, testing and inspecting agencies, and other parties identified by Contractor with a need-to-know schedule responsibility.
1. Post copies in Project meeting rooms and temporary field offices.
 2. When revisions are made, distribute updated schedules to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in performance of construction activities.

1.7 CONSTRUCTION SCHEDULE

- A. Gantt-Chart Schedule: Submit startup, horizontal, Gantt-chart-type construction schedule within seven days of date established for commencement of the Work.

1.8 GANTT-CHART SCHEDULE REQUIREMENTS

- A. Gantt-Chart Schedule: Submit a comprehensive, fully developed, horizontal, Gantt-chart-type, Contractor's Construction Schedule within 30 days of date established for commencement of the Work.
- B. Preparation: Indicate each significant construction activity separately. Identify first workday of each week with a continuous vertical line.
 - 1. For construction activities that require three months or longer to complete, indicate an estimated completion percentage in 10 percent increments within time bar.

1.9 REPORTS

- A. Site Condition Reports: Immediately on discovery of a difference between site conditions and the Contract Documents, prepare and submit a detailed report. Submit with a Request for Information. Include a detailed description of the differing conditions, together with recommendations for changing the Contract Documents.
- B. Unusual Event Reports: When an event of an unusual and significant nature occurs at Project site, whether or not related directly to the Work, prepare and submit a special report. List chain of events, persons participating, responses by Contractor's personnel, evaluation of results or effects, and similar pertinent information. Advise Owner in advance when these events are known or predictable.
 - 1. Submit unusual event reports directly to Owner within one day(s) of an occurrence. Distribute copies of report to parties affected by the occurrence.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 3200

SECTION 01 3300 - SUBMITTAL PROCEDURES

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. Section Includes:

- 1. Submittal schedule requirements.
- 2. Administrative and procedural requirements for submittals.

- B. Related Requirements:

- 1. Section 01 2900 "Payment Procedures" for submitting Applications for Payment and the schedule of values.
- 2. Section 01 3100 "Project Management and Coordination" for submitting coordination drawings and subcontract list and for requirements for web-based Project software.
- 3. Section 01 3200 "Construction Progress Documentation" for submitting schedules and reports, including Contractor's construction schedule.
- 4. Section 01 4000 "Quality Requirements" for submitting test and inspection reports, and schedule of tests and inspections.
- 5. Section 01 7700 "Closeout Procedures" for submitting closeout submittals and maintenance material submittals.
- 6. Section 01 7823 "Operation and Maintenance Data" for submitting operation and maintenance manuals.
- 7. Section 01 7839 "Project Record Documents" for submitting record Drawings, record Specifications, and record Product Data.

1.3 DEFINITIONS

- A. Action Submittals: Written and graphic information and physical samples that require Architect's responsive action. Action submittals are those submittals indicated in individual Specification Sections as "action submittals."
- B. Informational Submittals: Written and graphic information and physical samples that do not require Architect's responsive action. Submittals may be rejected for not complying with requirements. Informational submittals are those submittals indicated in individual Specification Sections as "informational submittals."

1.4 SUBMITTAL SCHEDULE

- A. Submittal Schedule: Submit, as an action submittal, a list of submittals, arranged in chronological order by dates required by construction schedule. Include time required for review, ordering, manufacturing, fabrication, and delivery when establishing dates. Include additional time required for making corrections or revisions to submittals noted by Architect and additional time for handling and reviewing submittals required by those corrections.
1. Coordinate submittal schedule with list of subcontracts, the schedule of values, and Contractor's construction schedule.
 2. Initial Submittal Schedule: Submit concurrently with startup construction schedule. Include submittals required during the first 60 days of construction. List those submittals required to maintain orderly progress of the Work and those required early because of long lead time for manufacture or fabrication.
 3. Final Submittal Schedule: Submit concurrently with the first complete submittal of Contractor's construction schedule.
 - a. Submit revised submittal schedule as required to reflect changes in current status and timing for submittals.
 4. Format: Arrange the following information in a tabular format:
 - a. Scheduled date for first submittal.
 - b. Specification Section number and title.
 - c. Submittal Category: Action; informational.
 - d. Name of subcontractor.
 - e. Description of the Work covered.
 - f. Scheduled date for Architect's final release or approval.
 - g. Scheduled dates for purchasing.
 - h. Scheduled date of fabrication.
 - i. Scheduled dates for installation.
 - j. Activity or event number.

1.5 SUBMITTAL FORMATS

- A. Submittal Information: Include the following information in each submittal:
1. Project name.
 2. Date.
 3. Name of Architect.
 4. Name of Construction Manager.
 5. Name of Contractor.
 6. Name of firm or entity that prepared submittal.
 7. Names of subcontractor, manufacturer, and supplier.
 8. Unique submittal number, including revision identifier. Include Specification Section number with sequential alphanumeric identifier and alphanumeric suffix for resubmittals.
 9. Category and type of submittal.
 10. Submittal purpose and description.
 11. Number and title of Specification Section, with paragraph number and generic name for each of multiple items.

12. Drawing number and detail references, as appropriate.
13. Indication of full or partial submittal.
14. Location(s) where product is to be installed, as appropriate.
15. Other necessary identification.
16. Remarks.
17. Signature of transmitter.

- B. Options: Identify options requiring selection by Architect.
- C. Deviations and Additional Information: On each submittal, clearly indicate deviations from requirements in the Contract Documents, including minor variations and limitations; include relevant additional information and revisions, other than those requested by Architect on previous submittals. Indicate by highlighting on each submittal or noting on attached separate sheet.
- D. Electronic Submittals: Prepare submittals as PDF package, incorporating complete information into each PDF file. Name PDF file with submittal number.

1.6 SUBMITTAL PROCEDURES

- A. Prepare and submit submittals required by individual Specification Sections. Types of submittals are indicated in individual Specification Sections.
 1. Email: Prepare submittals as PDF package and transmit to Architect by sending via email. Include PDF transmittal form. Include information in email subject line as requested by Architect.
 - a. Architect will return annotated file. Annotate and retain one copy of file as a digital Project Record Document file.
 2. Paper: Prepare submittals in paper form and deliver to Architect.
- B. Coordination: Coordinate preparation and processing of submittals with performance of construction activities.
 1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.
 2. Submit all submittal items required for each Specification Section concurrently unless partial submittals for portions of the Work are indicated on approved submittal schedule.
 3. Submit action submittals and informational submittals required by the same Specification Section as separate packages under separate transmittals.
 4. Coordinate transmittal of submittals for related parts of the Work specified in different Sections, so processing will not be delayed because of need to review submittals concurrently for coordination.
 - a. Architect reserves the right to withhold action on a submittal requiring coordination with other submittals until related submittals are received.
- C. Processing Time: Allow time for submittal review, including time for resubmittals, as follows. Time for review shall commence on Architect's receipt of submittal. No extension of the

Contract Time will be authorized because of failure to transmit submittals enough in advance of the Work to permit processing, including resubmittals.

1. Initial Review: Allow 15 days for initial review of each submittal. Allow additional time if coordination with subsequent submittals is required. Architect will advise Contractor when a submittal being processed must be delayed for coordination.
2. Intermediate Review: If intermediate submittal is necessary, process it in same manner as initial submittal.
3. Resubmittal Review: Allow 15 days for review of each resubmittal.
4. Concurrent Consultant Review: Where the Contract Documents indicate that submittals may be transmitted simultaneously to Architect and to Architect's consultants, allow 15 days for review of each submittal. Submittal will be returned to Architect before being returned to Contractor.
 - a. Submit one copy of submittal to concurrent reviewer in addition to specified number of copies to Architect.

D. Resubmittals: Make resubmittals in same form and number of copies as initial submittal.

1. Note date and content of previous submittal.
2. Note date and content of revision in label or title block, and clearly indicate extent of revision.
3. Resubmit submittals until they are marked with approval notation from Architect's action stamp.

E. Distribution: Furnish copies of final submittals to manufacturers, subcontractors, suppliers, fabricators, installers, authorities having jurisdiction, and others as necessary for performance of construction activities. Show distribution on transmittal forms.

F. Use for Construction: Retain complete copies of submittals on Project site. Use only final action submittals that are marked with approval notation from Architect's action stamp.

1.7 SUBMITTAL REQUIREMENTS

A. Product Data: Collect information into a single submittal for each element of construction and type of product or equipment.

1. If information must be specially prepared for submittal because standard published data are unsuitable for use, submit as Shop Drawings, not as Product Data.
2. Mark each copy of each submittal to show which products and options are applicable.
3. Include the following information, as applicable:
 - a. Manufacturer's catalog cuts.
 - b. Manufacturer's product specifications.
 - c. Standard color charts.
 - d. Statement of compliance with specified referenced standards.
 - e. Testing by recognized testing agency.
 - f. Application of testing agency labels and seals.
 - g. Notation of coordination requirements.

- h. Availability and delivery time information.
 - 4. For equipment, include the following in addition to the above, as applicable:
 - a. Wiring diagrams that show factory-installed wiring.
 - b. Printed performance curves.
 - c. Operational range diagrams.
 - d. Clearances required to other construction, if not indicated on accompanying Shop Drawings.
 - 5. Submit Product Data before Shop Drawings, and before or concurrently with Samples.
- B. Shop Drawings: Prepare Project-specific information, drawn accurately to scale. Do not base Shop Drawings on reproductions of the Contract Documents or standard printed data.
- 1. Preparation: Fully illustrate requirements in the Contract Documents. Include the following information, as applicable:
 - a. Identification of products.
 - b. Schedules.
 - c. Compliance with specified standards.
 - d. Notation of coordination requirements.
 - e. Notation of dimensions established by field measurement.
 - f. Relationship and attachment to adjoining construction clearly indicated.
 - g. Seal and signature of professional engineer if specified.
 - 2. Paper Sheet Size: Except for templates, patterns, and similar full-size Drawings, submit Shop Drawings on sheets at least 8-1/2 by 11 inches, but no larger than 30 by 42 inches.
 - a. One electronic PDF copy of each submittal. Architect will return one electronic PDF copy.
- C. Product Schedule: As required in individual Specification Sections, prepare a written summary indicating types of products required for the Work and their intended location. Include the following information in tabular form:
- 1. Type of product. Include unique identifier for each product indicated in the Contract Documents or assigned by Contractor if none is indicated.
 - 2. Manufacturer and product name, and model number if applicable.
 - 3. Number and name of room or space.
 - 4. Location within room or space.
- D. Qualification Data: Prepare written information that demonstrates capabilities and experience of firm or person. Include lists of completed projects with project names and addresses, contact information of architects and owners, and other information specified.
- E. Design Data: Prepare and submit written and graphic information indicating compliance with indicated performance and design criteria in individual Specification Sections. Include list of assumptions and summary of loads. Include load diagrams if applicable. Provide name and version of software, if any, used for calculations. Number each page of submittal.
- F. Certificates:

1. Certificates and Certifications Submittals: Submit a statement that includes signature of entity responsible for preparing certification. Certificates and certifications shall be signed by an officer or other individual authorized to sign documents on behalf of that entity. Provide a notarized signature where indicated.
2. Installer Certificates: Submit written statements on manufacturer's letterhead, certifying that Installer complies with requirements in the Contract Documents and, where required, is authorized by manufacturer for this specific Project.
3. Manufacturer Certificates: Submit written statements on manufacturer's letterhead, certifying that manufacturer complies with requirements in the Contract Documents. Include evidence of manufacturing experience where required.
4. Material Certificates: Submit written statements on manufacturer's letterhead, certifying that material complies with requirements in the Contract Documents.
5. Product Certificates: Submit written statements on manufacturer's letterhead, certifying that product complies with requirements in the Contract Documents.
6. Welding Certificates: Prepare written certification that welding procedures and personnel comply with requirements in the Contract Documents. Submit record of AWS B2.1/B2.1M on AWS forms. Include names of firms and personnel certified.

G. Test and Research Reports:

1. Compatibility Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of compatibility tests performed before installation of product. Include written recommendations for substrate preparation and primers required.
2. Field Test Reports: Submit written reports indicating and interpreting results of field tests performed either during installation of product or after product is installed in its final location, for compliance with requirements in the Contract Documents.
3. Material Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting test results of material for compliance with requirements in the Contract Documents.
4. Preconstruction Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of tests performed before installation of product, for compliance with performance requirements in the Contract Documents.
5. Product Test Reports: Submit written reports indicating that current product produced by manufacturer complies with requirements in the Contract Documents. Base reports on evaluation of tests performed by manufacturer and witnessed by a qualified testing agency, or on comprehensive tests performed by a qualified testing agency.
6. Research Reports: Submit written evidence, from a model code organization acceptable to authorities having jurisdiction, that product complies with building code in effect for Project. Include the following information:
 - a. Name of evaluation organization.
 - b. Date of evaluation.
 - c. Time period when report is in effect.
 - d. Product and manufacturers' names.
 - e. Description of product.
 - f. Test procedures and results.
 - g. Limitations of use.

1.8 DELEGATED-DESIGN SERVICES

- A. Performance and Design Criteria: Where professional design services or certifications by a design professional are specifically required of Contractor by the Contract Documents, provide products and systems complying with specific performance and design criteria indicated.
 - 1. If criteria indicated are insufficient to perform services or certification required, submit a written request for additional information to Architect.
- B. Delegated-Design Services Certification: In addition to Shop Drawings, Product Data, and other required submittals, submit digitally signed PDF file paper copies of certificate, signed and sealed by the responsible design professional, for each product and system specifically assigned to Contractor to be designed or certified by a design professional.
 - 1. Indicate that products and systems comply with performance and design criteria in the Contract Documents. Include list of codes, loads, and other factors used in performing these services.

1.9 CONTRACTOR'S REVIEW

- A. Action Submittals and Informational Submittals: Review each submittal and check for coordination with other Work of the Contract and for compliance with the Contract Documents. Note corrections and field dimensions. Mark with approval stamp before submitting to Architect.
- B. Contractor's Approval: Indicate Contractor's approval for each submittal with a uniform approval stamp. Include name of reviewer, date of Contractor's approval, and statement certifying that submittal has been reviewed, checked, and approved for compliance with the Contract Documents.
 - 1. Architect will not review submittals received from Contractor that do not have Contractor's review and approval.

1.10 ARCHITECT'S REVIEW

- A. Action Submittals: Architect will review each submittal, indicate corrections or revisions required, and return.
 - 1. PDF Submittals: Architect will stamp each submittal with an electronic action stamp and will mark stamp appropriately to indicate action.
- B. Informational Submittals: Architect will review each submittal and will not return it, or will return it if it does not comply with requirements. Architect will forward each submittal to appropriate party.
- C. Partial submittals prepared for a portion of the Work will be reviewed when use of partial submittals has received prior approval from Architect.
- D. Incomplete submittals are unacceptable, will be considered nonresponsive, and will be returned for resubmittal without review.

- E. Architect will return without review submittals received from sources other than Contractor.
- F. Submittals not required by the Contract Documents will be returned by Architect without action.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 3300

SECTION 01 4000 - QUALITY REQUIREMENTS

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. Section includes administrative and procedural requirements for quality assurance and quality control.
- B. Testing and inspection services are required to verify compliance with requirements specified or indicated. These services do not relieve Contractor of responsibility for compliance with the Contract Document requirements.
 - 1. Specific quality-assurance and quality-control requirements for individual work results are specified in their respective Specification Sections. Requirements in individual Sections may also cover production of standard products.
 - 2. Specified tests, inspections, and related actions do not limit Contractor's other quality-assurance and quality-control procedures that facilitate compliance with the Contract Document requirements.
 - 3. Requirements for Contractor to provide quality-assurance and quality-control services required by Architect, Owner, or authorities having jurisdiction are not limited by provisions of this Section.

1.3 DEFINITIONS

- A. Experienced: When used with an entity or individual, "experienced," unless otherwise further described, means having successfully completed a minimum of five previous projects similar in nature, size, and extent to this Project; being familiar with special requirements indicated; and having complied with requirements of authorities having jurisdiction.
- B. Field Quality-Control Tests and Inspections: Tests and inspections that are performed on-site for installation of the Work and for completed Work.
- C. Installer/Applicator/Erector: Contractor or another entity engaged by Contractor as an employee, subcontractor, or sub-subcontractor, to perform a particular construction operation, including installation, erection, application, assembly, and similar operations.
 - 1. Use of trade-specific terminology in referring to a Work result does not require that certain construction activities specified apply exclusively to specific trade(s).
- D. Mockups: Full-size physical assemblies that are constructed either as freestanding temporary built elements or as part of permanent construction. Mockups are constructed to verify

selections made under Sample submittals; to demonstrate aesthetic effects and qualities of materials and execution; to review coordination, testing, or operation; to show interface between dissimilar materials; and to demonstrate compliance with specified installation tolerances. Mockups are not Samples. Unless otherwise indicated, approved mockups establish the standard by which the Work will be judged.

- E. Preconstruction Testing: Tests and inspections performed specifically for Project before products and materials are incorporated into the Work, to verify performance or compliance with specified criteria. Unless otherwise indicated, copies of reports of tests or inspections performed for other than the Project do not meet this definition.
- F. Product Tests: Tests and inspections that are performed by a nationally recognized testing laboratory (NRTL) according to 29 CFR 1910.7, by a testing agency accredited according to NIST's National Voluntary Laboratory Accreditation Program (NVLAP), or by a testing agency qualified to conduct product testing and acceptable to authorities having jurisdiction, to establish product performance and compliance with specified requirements.
- G. Source Quality-Control Tests and Inspections: Tests and inspections that are performed at the source (e.g., plant, mill, factory, or shop).
- H. Testing Agency: An entity engaged to perform specific tests, inspections, or both. The term "testing laboratory" shall have the same meaning as the term "testing agency."
- I. Quality-Assurance Services: Activities, actions, and procedures performed before and during execution of the Work, to guard against defects and deficiencies and substantiate that proposed construction will comply with requirements.
- J. Quality-Control Services: Tests, inspections, procedures, and related actions during and after execution of the Work, to evaluate that actual products incorporated into the Work and completed construction comply with requirements. Contractor's quality-control services do not include contract administration activities performed by Architect[**or Construction Manager**].

1.4 DELEGATED-DESIGN SERVICES

- A. Performance and Design Criteria: Where professional design services or certifications by a design professional are specifically required of Contractor by the Contract Documents, provide products and systems complying with specific performance and design criteria indicated.
 - 1. If criteria indicated are not sufficient to perform services or certification required, submit a written request for additional information to Architect.
- B. Delegated-Design Services Statement: Submit a statement signed and sealed by the responsible design professional, for each product and system specifically assigned to Contractor to be designed or certified by a design professional, indicating that the products and systems are in compliance with performance and design criteria indicated. Include list of codes, loads, and other factors used in performing these services.

1.5 CONFLICTING REQUIREMENTS

- A. **Conflicting Standards and Other Requirements:** If compliance with two or more standards or requirements is specified and the standards or requirements establish different or conflicting requirements for minimum quantities or quality levels, inform the Architect regarding the conflict and obtain clarification prior to proceeding with the Work. Refer conflicting requirements that are different, but apparently equal, to Architect for clarification before proceeding.
- B. **Minimum Quantity or Quality Levels:** The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with these requirements, indicated numeric values are minimum or maximum, as appropriate, for the context of requirements. Refer uncertainties to Architect for a decision before proceeding.

1.6 INFORMATIONAL SUBMITTALS

- A. **Testing Agency Qualifications:** For testing agencies specified in "Quality Assurance" Article to demonstrate their capabilities and experience. Include proof of qualifications in the form of a recent report on the inspection of the testing agency by a recognized authority.
- B. **Schedule of Tests and Inspections:** Prepare in tabular form and include the following:
 - 1. Specification Section number and title.
 - 2. Entity responsible for performing tests and inspections.
 - 3. Description of test and inspection.
 - 4. Identification of applicable standards.
 - 5. Identification of test and inspection methods.
 - 6. Number of tests and inspections required.
 - 7. Time schedule or time span for tests and inspections.
 - 8. Requirements for obtaining samples.
 - 9. Unique characteristics of each quality-control service.
- C. **Reports:** Prepare and submit certified written reports and documents as specified.
- D. **Permits, Licenses, and Certificates:** For Owner's record, submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, correspondence, records, and similar documents established for compliance with standards and regulations bearing on performance of the Work.

1.7 REPORTS AND DOCUMENTS

- A. **Test and Inspection Reports:** Prepare and submit certified written reports specified in other Sections. Include the following:
 - 1. Date of issue.
 - 2. Project title and number.
 - 3. Name, address, telephone number, and email address of testing agency.

4. Dates and locations of samples and tests or inspections.
5. Names of individuals making tests and inspections.
6. Description of the Work and test and inspection method.
7. Identification of product and Specification Section.
8. Complete test or inspection data.
9. Test and inspection results and an interpretation of test results.
10. Record of temperature and weather conditions at time of sample-taking and testing and inspection.
11. Comments or professional opinion on whether tested or inspected Work complies with the Contract Document requirements.
12. Name and signature of laboratory inspector.
13. Recommendations on retesting and reinspecting.

B. **Manufacturer's Technical Representative's Field Reports:** Prepare written information documenting manufacturer's technical representative's tests and inspections specified in other Sections. Include the following:

1. Name, address, telephone number, and email address of technical representative making report.
2. Statement on condition of substrates and their acceptability for installation of product.
3. Statement that products at Project site comply with requirements.
4. Summary of installation procedures being followed, whether they comply with requirements and, if not, what corrective action was taken.
5. Results of operational and other tests and a statement of whether observed performance complies with requirements.
6. Statement of whether conditions, products, and installation will affect warranty.
7. Other required items indicated in individual Specification Sections.

C. **Factory-Authorized Service Representative's Reports:** Prepare written information documenting manufacturer's factory-authorized service representative's tests and inspections specified in other Sections. Include the following:

1. Name, address, telephone number, and email address of factory-authorized service representative making report.
2. Statement that equipment complies with requirements.
3. Results of operational and other tests and a statement of whether observed performance complies with requirements.
4. Statement of whether conditions, products, and installation will affect warranty.
5. Other required items indicated in individual Specification Sections.

1.8 QUALITY ASSURANCE

- A. Qualifications paragraphs in this article establish the minimum qualification levels required; individual Specification Sections specify additional requirements.
- B. **Manufacturer Qualifications:** A firm experienced in manufacturing products or systems similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units. As applicable, procure products from manufacturers able to meet qualification requirements, warranty requirements, and technical or factory-authorized service representative requirements.

- C. Fabricator Qualifications: A firm experienced in producing products similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- D. Installer Qualifications: A firm or individual experienced in installing, erecting, applying, or assembling work similar in material, design, and extent to that indicated for this Project, whose work has resulted in construction with a record of successful in-service performance.
- E. Professional Engineer Qualifications: A professional engineer who is legally qualified to practice in jurisdiction where Project is located and who is experienced in providing engineering services of the kind indicated. Engineering services are defined as those performed for installations of the system, assembly, or product that is similar in material, design, and extent to those indicated for this Project.
- F. Specialists: Certain Specification Sections require that specific construction activities shall be performed by entities who are recognized experts in those operations. Specialists shall satisfy qualification requirements indicated and shall be engaged in the activities indicated.
 - 1. Requirements of authorities having jurisdiction shall supersede requirements for specialists.
- G. Testing and Inspecting Agency Qualifications: An NRTL, an NVLAP, or an independent agency with the experience and capability to conduct testing and inspection indicated, as documented in accordance with ASTM E329, and with additional qualifications specified in individual Sections; and, where required by authorities having jurisdiction, that is acceptable to authorities.
- H. Manufacturer's Technical Representative Qualifications: An authorized representative of manufacturer who is trained and approved by manufacturer to observe and inspect installation of manufacturer's products that are similar in material, design, and extent to those indicated for this Project.
- I. Factory-Authorized Service Representative Qualifications: An authorized representative of manufacturer who is trained and approved by manufacturer to inspect, demonstrate, repair, and perform service on installations of manufacturer's products that are similar in material, design, and extent to those indicated for this Project.
- J. Preconstruction Testing: Where testing agency is indicated to perform preconstruction testing for compliance with specified requirements for performance and test methods, comply with the following Contractor's responsibilities, including the following:
 - 1. Provide test specimens representative of proposed products and construction.
 - 2. Submit specimens in a timely manner with sufficient time for testing and analyzing results to prevent delaying the Work.
 - 3. Provide sizes and configurations of test assemblies, mockups, and laboratory mockups to adequately demonstrate capability of products to comply with performance requirements.
 - 4. Build site-assembled test assemblies and mockups, using installers who will perform same tasks for Project.
 - 5. Build laboratory mockups at testing facility, using personnel, products, and methods of construction indicated for the completed Work.

6. When testing is complete, remove test specimens and test assemblies, mockups, and laboratory mockups unless otherwise noted; do not reuse products on Project.
 7. Testing Agency Responsibilities: Submit a certified written report of each test, inspection, and similar quality-assurance service to Architect, through Construction Manager, with copy to Contractor. Interpret tests and inspections, and state in each report whether tested and inspected Work complies with or deviates from the Contract Documents.
- K. Mockups: Before installing portions of the Work requiring mockups, build mockups for each form of construction and finish required to comply with the following requirements, using materials indicated for the completed Work:
1. Build mockups of size indicated.
 2. Build mockups in location indicated or, if not indicated, as directed by Architect.
 3. Notify Architect seven days in advance of dates and times when mockups will be constructed.
 4. Employ supervisory personnel who will oversee mockup construction. Employ workers who will be employed to perform same tasks during the construction at Project.
 5. Demonstrate the proposed range of aesthetic effects and workmanship.
 6. Obtain Architect's approval of mockups before starting corresponding Work, fabrication, or construction.
 - a. Allow seven days for initial review and each re-review of each mockup.
 7. Promptly correct unsatisfactory conditions noted by Architect's preliminary review, to the satisfaction of the Architect, before completion of final mockup.
 8. Approval of mockups by the Architect does not constitute approval of deviations from the Contract Documents contained in mockups unless Architect specifically approves such deviations in writing.
 9. Maintain mockups during construction in an undisturbed condition as a standard for judging the completed Work.
 10. Demolish and remove mockups when directed unless otherwise indicated.
- L. Integrated Exterior Mockups: Construct integrated exterior mockup according to approved Shop Drawings. Coordinate installation of exterior envelope materials and products for which mockups are required in individual Specification Sections, along with supporting materials. Comply with requirements in "Mockups" Paragraph.
1. Coordinate construction of the mockup to allow observation of air barrier installation, flashings, air barrier integration with fenestration systems, and other portions of the building air/moisture barrier and drainage assemblies, prior to installation of veneer, cladding elements, and other components that will obscure the work.

1.9 QUALITY CONTROL

- A. Contractor Responsibilities: Tests and inspections not explicitly assigned to Owner are Contractor's responsibility. Perform additional quality-control activities, whether specified or not, to verify and document that the Work complies with requirements.

1. Unless otherwise indicated, provide quality-control services specified and those required by authorities having jurisdiction. Perform quality-control services required of Contractor by authorities having jurisdiction, whether specified or not.
 2. Engage a qualified testing agency to perform quality-control services.
 - a. Contractor shall not employ same entity engaged by Owner, unless agreed to in writing by Owner.
 3. Notify testing agencies at least 24 hours in advance of time when Work that requires testing or inspection will be performed.
 4. Where quality-control services are indicated as Contractor's responsibility, submit a certified written report, in duplicate, of each quality-control service.
 5. Testing and inspection requested by Contractor and not required by the Contract Documents are Contractor's responsibility.
 6. Submit additional copies of each written report directly to authorities having jurisdiction, when they so direct.
- B. Retesting/Reinspecting: Regardless of whether original tests or inspections were Contractor's responsibility, provide quality-control services, including retesting and reinspecting, for construction that replaced Work that failed to comply with the Contract Documents.
- C. Testing Agency Responsibilities: Cooperate with Architect and Contractor in performance of duties. Provide qualified personnel to perform required tests and inspections.
1. Notify Architect and Contractor promptly of irregularities or deficiencies observed in the Work during performance of its services.
 2. Determine the locations from which test samples will be taken and in which in-situ tests are conducted.
 3. Conduct and interpret tests and inspections, and state in each report whether tested and inspected Work complies with or deviates from requirements.
 4. Submit a certified written report, in duplicate, of each test, inspection, and similar quality-control service through Contractor.
 5. Do not release, revoke, alter, or increase the Contract Document requirements or approve or accept any portion of the Work.
 6. Do not perform duties of Contractor.
- D. Manufacturer's Field Services: Where indicated, engage a factory-authorized service representative to inspect field-assembled components and equipment installation, including service connections. Report results in writing as specified in Section 01 3300 "Submittal Procedures."
- E. Manufacturer's Technical Services: Where indicated, engage a manufacturer's technical representative to observe and inspect the Work. Manufacturer's technical representative's services include participation in preinstallation conferences, examination of substrates and conditions, verification of materials, observation of Installer activities, inspection of completed portions of the Work, and submittal of written reports.
- F. Contractor's Associated Requirements and Services: Cooperate with agencies and representatives performing required tests, inspections, and similar quality-control services, and provide reasonable auxiliary services as requested. Notify agency sufficiently in advance of operations to permit assignment of personnel. Provide the following:

1. Access to the Work.
 2. Incidental labor and facilities necessary to facilitate tests and inspections.
 3. Adequate quantities of representative samples of materials that require testing and inspection. Assist agency in obtaining samples.
 4. Facilities for storage and field curing of test samples.
 5. Delivery of samples to testing agencies.
 6. Preliminary design mix proposed for use for material mixes that require control by testing agency.
 7. Security and protection for samples and for testing and inspection equipment at Project site.
- G. Coordination: Coordinate sequence of activities to accommodate required quality-assurance and quality-control services with a minimum of delay and to avoid necessity of removing and replacing construction to accommodate testing and inspection.
1. Schedule times for tests, inspections, obtaining samples, and similar activities.
- H. Schedule of Tests and Inspections: Prepare a schedule of tests, inspections, and similar quality-control services required by the Contract Documents. Coordinate and submit concurrently with Contractor's Construction Schedule. Update and submit with each Application for Payment.
1. Schedule Contents: Include tests, inspections, and quality-control services, including Contractor- and Owner-retained services, commissioning activities, and other Project-required services paid for by other entities.
 2. Distribution: Distribute schedule to Owner, Architect, testing agencies, and each party involved in performance of portions of the Work where tests and inspections are required.

1.10 SPECIAL TESTS AND INSPECTIONS

- A. Special Tests and Inspections: Contractor will engage a qualified testing agency to conduct special tests and inspections required by authorities having jurisdiction as indicated on drawings.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 TEST AND INSPECTION LOG

- A. Test and Inspection Log: Prepare a record of tests and inspections. Include the following:
1. Date test or inspection was conducted.
 2. Description of the Work tested or inspected.
 3. Date test or inspection results were transmitted to Architect.
 4. Identification of testing agency or special inspector conducting test or inspection.

- B. Maintain log at Project site. Post changes and revisions as they occur. Provide access to test and inspection log for Architect's and authorities' having jurisdiction reference during normal working hours.
 - 1. Submit log at Project closeout as part of Project Record Documents.

3.2 REPAIR AND PROTECTION

- A. General: On completion of testing, inspection, sample-taking, and similar services, repair damaged construction and restore substrates and finishes.
 - 1. Provide materials and comply with installation requirements specified in other Specification Sections or matching existing substrates and finishes. Restore patched areas and extend restoration into adjoining areas with durable seams that are as invisible as possible. Comply with the Contract Document requirements for cutting and patching in Section 01 7300 "Execution."
- B. Protect construction exposed by or for quality-control service activities.
- C. Repair and protection are Contractor's responsibility, regardless of the assignment of responsibility for quality-control services.

END OF SECTION 01 4000

SECTION 01 5000 - 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 other Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Section includes requirements for temporary utilities, support facilities, and security and protection facilities.
- B. Related Requirements:
 - 1. Section 01 1000 "Summary" for work restrictions and limitations on utility interruptions.

1.3 USE CHARGES

- A. Water and Sewer Service from Existing System: Water from Owner's existing water system is available for use without metering and without payment of use charges. Provide connections and extensions of services as required for construction operations.
- B. Electric Power Service from Existing System: Electric power from Owner's existing system is available for use without metering and without payment of use charges. Provide connections and extensions of services as required for construction operations.

1.4 INFORMATIONAL SUBMITTALS

- A. Site Utilization Plan: Show temporary facilities, temporary utility lines and connections, staging areas, construction site entrances, vehicle circulation, and parking areas for construction personnel.
- B. Implementation and Termination Schedule: Within 15 days of date established for commencement of the Work, submit schedule indicating implementation and termination dates of each temporary utility.
- C. Project Identification and Temporary Signs: Show fabrication and installation details, including plans, elevations, details, layouts, tpestyles, graphic elements, and message content.
- D. Noise and Vibration Control Plan: Identify construction activities that may impact the occupancy and use of existing spaces within the building or adjacent existing buildings, whether occupied by others, or occupied by the Owner. Include the following:
 - 1. Methods used to meet the goals and requirements of the Owner.

2. Concrete cutting method(s) to be used.
3. Location of construction devices on the site.
4. Show compliance with the use and maintenance of quieted construction devices for the duration of the Project.
5. Indicate activities that may disturb building occupants and that are planned to be performed during non-standard working hours as coordinated with the Owner.

1.5 QUALITY ASSURANCE

- A. Tests and Inspections: Arrange for authorities having jurisdiction to test and inspect each temporary utility before use. Obtain required certifications and permits.
- B. Accessible Temporary Egress: Comply with applicable provisions in the United States Access Board's ADA-ABA Accessibility Guidelines and ICC/ANSI A117.1.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Portable Chain-Link Fencing: Minimum 2-inch, 0.148-inch- thick, galvanized-steel, chain-link fabric fencing; minimum 6 feet high with galvanized-steel pipe posts; minimum 2-3/8-inch- OD line posts and 2-7/8-inch- OD corner and pull posts, with 1-5/8-inch- OD top and bottom rails. Provide concrete bases for supporting posts.

2.2 TEMPORARY FACILITIES

- A. Field Offices: Prefabricated or mobile units with serviceable finishes, temperature controls, and foundations adequate for normal loading.
- B. Common-Use Field Office: Of sufficient size to accommodate needs of Owner, Architect, and construction personnel office activities and to accommodate Project meetings specified in other Division 01 Sections. Keep office clean and orderly.
- C. Storage and Fabrication Sheds: Provide sheds sized, furnished, and equipped to accommodate materials and equipment for construction operations.
 1. Store combustible materials apart from building.

PART 3 - EXECUTION

3.1 TEMPORARY FACILITIES, GENERAL

- A. Conservation: Coordinate construction and use of temporary facilities with consideration given to conservation of energy, water, and materials. Coordinate use of temporary utilities to minimize waste.

1. Salvage materials and equipment involved in performance of, but not actually incorporated into, the Work. See other Sections for disposition of salvaged materials that are designated as Owner's property.

3.2 INSTALLATION, GENERAL

- A. Locate facilities where they will serve Project adequately and result in minimum interference with performance of the Work. Relocate and modify facilities as required by progress of the Work.
 1. Locate facilities to limit site disturbance as specified in Section 01 1000 "Summary."
- B. Provide each facility ready for use when needed to avoid delay. Do not remove until facilities are no longer needed or are replaced by authorized use of completed permanent facilities.
- C. Isolation of Work Areas in Occupied Facilities: Prevent dust, fumes, and odors from entering occupied areas.
 1. Prior to commencing work, isolate the HVAC system in area where work is to be performed.
 - a. Disconnect supply and return ductwork in work area from HVAC systems servicing occupied areas.
 - b. Maintain negative air pressure within work area, using HEPA-equipped air-filtration units, starting with commencement of temporary partition construction, and continuing until removal of temporary partitions is complete.
 2. Perform daily construction cleanup and final cleanup using approved, HEPA-filter-equipped vacuum equipment.

3.3 TEMPORARY UTILITY INSTALLATION

- A. General: Install temporary service or connect to existing service.
 1. Arrange with utility company, Owner, and existing users for time when service can be interrupted, if necessary, to make connections for temporary services.
- B. Water Service: Connect to Owner's existing water service facilities. Clean and maintain water service facilities in a condition acceptable to Owner. At Substantial Completion, restore these facilities to condition existing before initial use.
- C. Sanitary Facilities: Provide temporary toilets, wash facilities, safety shower and eyewash facilities, and drinking water for use of construction personnel. Comply with requirements of authorities having jurisdiction for type, number, location, operation, and maintenance of fixtures and facilities.
 1. Use of Permanent Toilets: Use of Owner's existing or new toilet facilities is not permitted.
- D. Electric Power Service: Connect to Owner's existing electric power service. Maintain equipment in a condition acceptable to Owner.

3.4 SUPPORT FACILITIES INSTALLATION

- A. Comply with the following:
 - 1. Provide construction for temporary field offices, shops, and sheds located within construction area or within 30 feet of building lines that is noncombustible in accordance with ASTM E136. Comply with NFPA 241.
 - 2. Utilize designated area within existing building for temporary field offices.
 - 3. Maintain support facilities until Architect schedules Substantial Completion inspection. Remove before Substantial Completion. Personnel remaining after Substantial Completion will be permitted to use permanent facilities, under conditions acceptable to Owner.
- B. Parking: Use designated areas of Owner's existing parking areas for construction personnel.
- C. Storage and Staging: Use designated areas of Project site for storage and staging needs.
- D. Project Signs: Provide Project signs as indicated. Unauthorized signs are not permitted.
 - 1. Identification Signs: Provide Project identification signs as indicated in Specifications book.
 - 2. Temporary Signs: Provide other signs as indicated and as required to inform public and individuals seeking entrance to Project.
 - a. Provide temporary, directional signs for construction personnel and visitors.
 - 3. Maintain and touch up signs, so they are legible at all times.
- E. Waste Disposal Facilities: Provide waste-collection containers in sizes adequate to handle waste from construction operations. Comply with requirements of authorities having jurisdiction. Comply with progress cleaning requirements in Section 01 7300 "Execution."

3.5 SECURITY AND PROTECTION FACILITIES INSTALLATION

- A. Protection of Existing Facilities: Protect existing vegetation, equipment, structures, utilities, and other improvements at Project site and on adjacent properties, except those indicated to be removed or altered. Repair damage to existing facilities.
 - 1. Where access to adjacent properties is required in order to affect protection of existing facilities, obtain written permission from adjacent property owner to access property for that purpose.
- B. Environmental Protection: Provide protection, operate temporary facilities, and conduct construction as required to comply with environmental regulations and that minimize possible air, waterway, and subsoil contamination or pollution or other undesirable effects.
 - 1. Comply with work restrictions specified in Section 01 1000 "Summary."
- C. Site Enclosure Fence: Before construction operations begin, furnish and install site enclosure fence in a manner that will prevent people from easily entering site except by entrance gates.

1. Extent of Fence: As required to enclose entire Project site or portion determined sufficient to accommodate construction operations.
 2. Maintain security by limiting number of keys and restricting distribution to authorized personnel. Furnish one set of keys to Owner.
- D. Security Enclosure and Lockup: Install temporary enclosure around partially completed areas of construction. Provide lockable entrances to prevent unauthorized entrance, vandalism, theft, and similar violations of security. Lock entrances at end of each workday.
- E. Barricades, Warning Signs, and Lights: Comply with requirements of authorities having jurisdiction for erecting structurally adequate barricades, including warning signs and lighting.

3.6 OPERATION, TERMINATION, AND REMOVAL

- A. Supervision: Enforce strict discipline in use of temporary facilities. To minimize waste and abuse, limit availability of temporary facilities to essential and intended uses.
- B. Maintenance: Maintain facilities in good operating condition until removal.
- C. Temporary Facility Changeover: Do not change over from using temporary security and protection facilities to permanent facilities until Substantial Completion.
- D. Termination and Removal: Remove each temporary facility when need for its service has ended, when it has been replaced by authorized use of a permanent facility, or no later than Substantial Completion. Complete or, if necessary, restore permanent construction that may have been delayed because of interference with temporary facility. Repair damaged Work, clean exposed surfaces, and replace construction that cannot be satisfactorily repaired.
1. Materials and facilities that constitute temporary facilities are property of Contractor. Owner reserves right to take possession of Project identification signs.
 2. At Substantial Completion, repair, renovate, and clean permanent facilities used during construction period. Comply with final cleaning requirements specified in Section 01 7700 "Closeout Procedures."

END OF SECTION 01 5000

SECTION 01 6000 - PRODUCT REQUIREMENTS

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. Section includes administrative and procedural requirements for selection of products for use in Project; product delivery, storage, and handling; manufacturers' standard warranties on products; special warranties; and comparable products.
- B. Related Requirements:
 - 1. Section 01 1000 "Summary" for Contractor requirements related to Owner-furnished products.
 - 2. Section 01 2500 "Substitution Procedures" for requests for substitutions.
 - 3. Section 01 4200 "References" for applicable industry standards for products specified.
 - 4. Section 01 7700 "Closeout Procedures" for submitting warranties.

1.3 DEFINITIONS

- A. Products: Items obtained for incorporating into the Work, whether purchased for Project or taken from previously purchased stock. The term "product" includes the terms "material," "equipment," "system," and terms of similar intent.
 - 1. Named Products: Items identified by manufacturer's product name, including make or model number or other designation shown or listed in manufacturer's published product literature that is current as of date of the Contract Documents.
 - 2. New Products: Items that have not previously been incorporated into another project or facility. Salvaged items or items reused from other projects are not considered new products. Items that are manufactured or fabricated to include recycled content materials are considered new products, unless indicated otherwise.
 - 3. Comparable Product: Product by named manufacturer that is demonstrated and approved through the comparable product submittal process described in Part 2 "Comparable Products" Article, to have the indicated qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics that equal or exceed those of specified product.
- B. Basis-of-Design Product Specification: A specification in which a single manufacturer's product is named and accompanied by the words "basis-of-design product," including make or model number or other designation. Published attributes and characteristics of basis-of-design product establish salient characteristics of products.

1. Evaluation of Comparable Products: In addition to the basis-of-design product description, product attributes and characteristics may be listed to establish the significant qualities related to type, function, in-service performance and physical properties, weight, dimension, durability, visual characteristics, and other special features and requirements for purposes of evaluating comparable products of additional manufacturers named in the specification.
- C. Subject to Compliance with Requirements: Where the phrase "Subject to compliance with requirements" introduces a product selection procedure in an individual Specification Section, provide products qualified under the specified product procedure. In the event that a named product or product by a named manufacturer does not meet the other requirements of the specifications, select another named product or product from another named manufacturer that does meet the requirements of the specifications; submit a comparable product request or substitution request, if applicable.
- D. Comparable Product Request Submittal: An action submittal requesting consideration of a comparable product, including the following information:
 1. Identification of basis-of-design product or fabrication or installation method to be replaced, including Specification Section number and title and Drawing numbers and titles.
 2. Data indicating compliance with the requirements specified in Part 2 "Comparable Products" Article.
- E. Basis-of-Design Product Specification Submittal: An action submittal complying with requirements in Section 01 3300 "Submittal Procedures."
- F. Substitution: Refer to Section 01 2500 "Substitution Procedures" for definition and limitations on substitutions.

1.4 QUALITY ASSURANCE

- A. Compatibility of Options: If Contractor is given option of selecting between two or more products for use on Project, select product compatible with products previously selected, even if previously selected products were also options.
 1. Resolution of Compatibility Disputes between Multiple Contractors:
 - a. Contractors are responsible for providing products and construction methods compatible with products and construction methods of other contractors.
 - b. If a dispute arises between the multiple contractors over concurrently selectable but incompatible products, Architect will determine which products shall be used.
- B. Identification of Products: Except for required labels and operating data, do not attach or imprint manufacturer or product names or trademarks on exposed surfaces of products or equipment that will be exposed to view in occupied spaces or on the exterior.
 1. Labels: Locate required product labels and stamps on a concealed surface, or, where required for observation following installation, on a visually accessible surface that is not conspicuous.

2. Equipment Nameplates: Provide a permanent nameplate on each item of service- or power-operated equipment. Locate on a visually accessible but inconspicuous surface. Include information essential for operation, including the following:
 - a. Name of product and manufacturer.
 - b. Model and serial number.
 - c. Capacity.
 - d. Speed.
 - e. Ratings.
3. See individual identification Sections in Divisions 21, 22, 23, and 26 for additional equipment identification requirements.

1.5 COORDINATION

- A. Modify or adjust affected work as necessary to integrate work of approved comparable products and approved substitutions.

1.6 PRODUCT DELIVERY, STORAGE, AND HANDLING

- A. Deliver, store, and handle products, using means and methods that will prevent damage, deterioration, and loss, including theft and vandalism. Comply with manufacturer's written instructions.
- B. Delivery and Handling:
 1. Schedule delivery to minimize long-term storage at Project site and to prevent overcrowding of construction spaces.
 2. Coordinate delivery with installation time to ensure minimum holding time for items that are flammable, hazardous, easily damaged, or sensitive to deterioration, theft, and other losses.
 3. Deliver products to Project site in an undamaged condition in manufacturer's original sealed container or other packaging system, complete with labels and instructions for handling, storing, unpacking, protecting, and installing.
 4. Inspect products on delivery to determine compliance with the Contract Documents and that products are undamaged and properly protected.
- C. Storage:
 1. Provide a secure location and enclosure at Project site for storage of materials and equipment.
 2. Store products to allow for inspection and measurement of quantity or counting of units.
 3. Store materials in a manner that will not endanger Project structure.
 4. Store products that are subject to damage by the elements under cover in a weathertight enclosure above ground, with ventilation adequate to prevent condensation and with adequate protection from wind.
 5. Protect foam plastic from exposure to sunlight, except to extent necessary for period of installation and concealment.

6. Comply with product manufacturer's written instructions for temperature, humidity, ventilation, and weather-protection requirements for storage.
7. Protect stored products from damage and liquids from freezing.
8. Provide a secure location and enclosure at Project site for storage of materials and equipment by Owner's construction forces. Coordinate location with Owner.

1.7 PRODUCT WARRANTIES

- A. Warranties specified in other Sections shall be in addition to, and run concurrent with, other warranties required by the Contract Documents. Manufacturer's disclaimers and limitations on product warranties do not relieve Contractor of obligations under requirements of the Contract Documents.
 1. Manufacturer's Warranty: Written standard warranty form furnished by individual manufacturer for a particular product and issued in the name of the Owner or endorsed by manufacturer to Owner.
 2. Special Warranty: Written warranty required by the Contract Documents to provide specific rights for Owner and issued in the name of the Owner or endorsed by manufacturer to Owner.
- B. Special Warranties: Prepare a written document that contains appropriate terms and identification, ready for execution.
 1. Manufacturer's Standard Form: Modified to include Project-specific information and properly executed.
 2. Specified Form: When specified forms are included in the Project Manual, prepare a written document, using indicated form properly executed.
 3. See other Sections for specific content requirements and particular requirements for submitting special warranties.
- C. Submittal Time: Comply with requirements in Section 01 7700 "Closeout Procedures."

PART 2 - PRODUCTS

2.1 PRODUCT SELECTION PROCEDURES

- A. General Product Requirements: Provide products that comply with the Contract Documents, are undamaged and, unless otherwise indicated, are new at time of installation.
 1. Provide products complete with accessories, trim, finish, fasteners, and other items needed for a complete installation and indicated use and effect.
 2. Standard Products: If available, and unless custom products or nonstandard options are specified, provide standard products of types that have been produced and used successfully in similar situations on other projects.
 3. Owner reserves the right to limit selection to products with warranties meeting requirements of the Contract Documents.
 4. Where products are accompanied by the term "as selected," Architect will make selection.

5. Descriptive, performance, and reference standard requirements in the Specifications establish salient characteristics of products.
6. Or Equal: For products specified by name and accompanied by the term "or equal," "or approved equal," or "or approved," comply with requirements in "Comparable Products" Article to obtain approval for use of an unnamed product.
 - a. Submit additional documentation required by Architect in order to establish equivalency of proposed products. Unless otherwise indicated, evaluation of "or equal" product status is by the Architect, whose determination is final.

B. Product Selection Procedures:

1. Sole Product: Where Specifications name a single manufacturer and product, provide the named product that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.
 - a. Sole product may be indicated by the phrase "Subject to compliance with requirements, provide the following."
2. Sole Manufacturer/Source: Where Specifications name a single manufacturer or source, provide a product by the named manufacturer or source that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.
 - a. Sole manufacturer/source may be indicated by the phrase "Subject to compliance with requirements, provide products by the following."
3. Limited List of Products: Where Specifications include a list of names of both manufacturers and products, provide one of the products listed that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered unless otherwise indicated.
 - a. Limited list of products may be indicated by the phrase "Subject to compliance with requirements, provide one of the following."
4. Non-Limited List of Products: Where Specifications include a list of names of both available manufacturers and products, provide one of the products listed or an unnamed product that complies with requirements.
 - a. Non-limited list of products is indicated by the phrase "Subject to compliance with requirements, available products that may be incorporated in the Work include, but are not limited to, the following."
 - b. Provision of an unnamed product is not considered a substitution, if the product complies with requirements.
5. Limited List of Manufacturers: Where Specifications include a list of manufacturers' names, provide a product by one of the manufacturers listed that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered unless otherwise indicated.

- a. Limited list of manufacturers is indicated by the phrase "Subject to compliance with requirements, provide products by one of the following."
- 6. Non-Limited List of Manufacturers: Where Specifications include a list of available manufacturers, provide a product by one of the manufacturers listed or a product by an unnamed manufacturer that complies with requirements.
 - a. Non-limited list of manufacturers is indicated by the phrase "Subject to compliance with requirements, available manufacturers whose products may be incorporated in the Work include, but are not limited to, the following."
 - b. Provision of products of an unnamed manufacturer is not considered a substitution, if the product complies with requirements.
- 7. Basis-of-Design Product: Where Specifications name a product, or refer to a product indicated on Drawings, and include a list of manufacturers, provide the specified or indicated product or a comparable product by one of the other named manufacturers. Drawings and Specifications may additionally indicate sizes, profiles, dimensions, and other characteristics that are based on the product named. Comply with requirements in "Comparable Products" Article for consideration of an unnamed product by one of the other named manufacturers.
 - a. For approval of products by unnamed manufacturers, comply with requirements in Section 01 2500 "Substitution Procedures" for substitutions for convenience.
- C. Visual Matching Specification: Where Specifications require the phrase "match Architect's sample," provide a product that complies with requirements and matches Architect's sample. Architect's decision will be final on whether a proposed product matches.
 - 1. If no product available within specified category matches and complies with other specified requirements, comply with requirements in Section 01 2500 "Substitution Procedures" for proposal of product.
- D. Visual Selection Specification: Where Specifications include the phrase "as selected by Architect from manufacturer's full range" or a similar phrase, select a product that complies with requirements. Architect will select color, gloss, pattern, density, or texture from manufacturer's product line that includes both standard and premium items.
- E. Sustainable Product Selection: Where Specifications require product to meet sustainable product characteristics, select products complying with indicated requirements. Comply with requirements in Division 01 sustainability requirements Section and individual Specification Sections.
 - 1. Select products for which sustainable design documentation submittals are available from manufacturer.

2.2 COMPARABLE PRODUCTS

- A. Conditions for Consideration of Comparable Products: Architect will consider Contractor's request for comparable product when the following conditions are satisfied. If the following

conditions are not satisfied, Architect may return requests without action, except to record noncompliance with the following requirements:

1. Evidence that proposed product does not require revisions to the Contract Documents, is consistent with the Contract Documents, will produce the indicated results, and is compatible with other portions of the Work.
 2. Detailed comparison of significant qualities of proposed product with those of the named basis-of-design product. Significant product qualities include attributes, such as type, function, in-service performance and physical properties, weight, dimension, durability, visual characteristics, and other specific features and requirements.
 3. Evidence that proposed product provides specified warranty.
 4. List of similar installations for completed projects, with project names and addresses and names and addresses of architects and owners, if requested.
 5. Samples, if requested.
- B. Architect's Action on Comparable Products Submittal: If necessary, Architect will request additional information or documentation for evaluation, as specified in Section 01 3300 "Submittal Procedures."
1. Form of Approval of Submittal: As specified in Section 01 3300 "Submittal Procedures."
 2. Use product specified if Architect does not issue a decision on use of a comparable product request within time allocated.
- C. Submittal Requirements, Two-Step Process: Approval by the Architect of Contractor's request for use of comparable product is not intended to satisfy other submittal requirements. Comply with specified submittal requirements.
- D. Submittal Requirements, Single-Step Process: When acceptable to Architect, incorporate specified submittal requirements of individual Specification Section in combined submittal for comparable products. Approval by the Architect of Contractor's request for use of comparable product and of individual submittal requirements will also satisfy other submittal requirements.

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 6000

SECTION 01 7300 - EXECUTION

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. Section includes general administrative and procedural requirements governing execution of the Work, including, but not limited to, the following:
 - 1. Installation of the Work.
 - 2. Cutting and patching.
 - 3. Progress cleaning.
 - 4. Protection of installed construction.
- B. Related Requirements:
 - 1. Section 01 1000 "Summary" limits on use of Project site.
 - 2. Section 01 7700 "Closeout Procedures" for submitting final property survey with Project Record Documents, recording of Owner-accepted deviations from indicated lines and levels, replacing defective work, and final cleaning.

1.3 DEFINITIONS

- A. Cutting: Removal of in-place construction necessary to permit installation or performance of subsequent work.
- B. Patching: Fitting and repair work required to restore construction to original conditions after installation of subsequent work.

1.4 QUALITY ASSURANCE

- 1. Other Construction Elements: Do not cut and patch construction elements or components in a manner that could change their load-carrying capacity, that results in reducing their capacity to perform as intended, or that results in increased maintenance or decreased operational life or safety. Visual Elements: Do not cut and patch construction in a manner that results in visual evidence of cutting and patching. Do not cut and patch exposed construction in a manner that would, in Architect's opinion, reduce the building's aesthetic qualities. Remove and replace construction that has been cut and patched in a visually unsatisfactory manner.

- B. Manufacturer's Installation Instructions: Obtain and maintain on-site manufacturer's written recommendations and instructions for installation of specified products and equipment.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Comply with requirements specified in other Sections.
 - 1. For projects requiring compliance with sustainable design and construction practices and procedures, use products for patching that comply with sustainable design requirements.
- B. In-Place Materials: Use materials for patching identical to in-place materials. For exposed surfaces, use materials that visually match in-place adjacent surfaces to the fullest extent possible.
 - 1. If identical materials are unavailable or cannot be used, use materials that, when installed, will provide a match acceptable to Architect for the visual and functional performance of in-place materials. Use materials that are not considered hazardous.
- C. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Existing Conditions: The existence and location of underground and other utilities and construction indicated as existing are not guaranteed. Before beginning sitework, investigate and verify the existence and location of underground utilities, mechanical and electrical systems, and other construction affecting the Work.
- B. Examination and Acceptance of Conditions: Before proceeding with each component of the Work, examine substrates, areas, and conditions, with Installer or Applicator present where indicated, for compliance with requirements for installation tolerances and other conditions affecting performance. Record observations.
- C. Proceed with installation only after unsatisfactory conditions have been corrected. Proceeding with the Work indicates acceptance of surfaces and conditions.

3.2 PREPARATION

- A. Existing Utility Information: Furnish information to local utility and Owner that is necessary to adjust, move, or relocate existing utility structures, utility poles, lines, services, or other utility appurtenances located in or affected by construction. Coordinate with authorities having jurisdiction.

- B. Field Measurements: Take field measurements as required to fit the Work properly. Recheck measurements before installing each product. Where portions of the Work are indicated to fit to other construction, verify dimensions of other construction by field measurements before fabrication. Coordinate fabrication schedule with construction progress to avoid delaying the Work.
- C. Space Requirements: Verify space requirements and dimensions of items shown diagrammatically on Drawings.
- D. Review of Contract Documents and Field Conditions: Immediately on discovery of the need for clarification of the Contract Documents, submit a request for information to Architect in accordance with requirements in Section 01 3100 "Project Management and Coordination."

3.3 INSTALLATION

- A. Locate the Work and components of the Work accurately, in correct alignment and elevation, as indicated.
- B. Install products at the time and under conditions that will ensure satisfactory results as judged by Architect. Maintain conditions required for product performance until Substantial Completion.
- C. Conduct construction operations, so no part of the Work is subjected to damaging operations or loading in excess of that expected during normal conditions of occupancy of type expected for Project.
- D. Sequence the Work and allow adequate clearances to accommodate movement of construction items on-site and placement in permanent locations.
- E. Tools and Equipment: Select tools or equipment that minimize production of excessive noise levels.
 - 1.
- F. Joints: Make joints of uniform width. Where joint locations in exposed Work are not indicated, arrange joints for the best visual effect, as judged by Architect. Fit exposed connections together to form hairline joints.
- G. Repair or remove and replace damaged, defective, or nonconforming Work.
 - 1. Comply with Section 01 7700 "Closeout Procedures" for repairing or removing and replacing defective Work.

3.4 CUTTING AND PATCHING

- A. General: Employ skilled workers to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time, and complete without delay.
 - 1. Cut in-place construction to provide for installation of other components or performance of other construction, and subsequently patch as required to restore surfaces to their original condition.

- B. Existing Warranties: Remove, replace, patch, and repair materials and surfaces cut or damaged during installation or cutting and patching operations, by methods and with materials so as not to void existing warranties.
- C. Temporary Support: Provide temporary support of Work to be cut.
- D. Protection: Protect in-place construction during cutting and patching to prevent damage. Provide protection from adverse weather conditions for portions of Project that might be exposed during cutting and patching operations.
- E. Adjacent Occupied Areas: Where interference with use of adjoining areas or interruption of free passage to adjoining areas is unavoidable, coordinate cutting and patching in accordance with requirements in Section 01 1000 "Summary."
- F. Cutting: Cut in-place construction by sawing, drilling, breaking, chipping, grinding, and similar operations, including excavation, using methods least likely to damage elements retained or adjoining construction. If possible, review proposed procedures with original Installer; comply with original Installer's written recommendations.
 - 1. In general, use hand or small power tools designed for sawing and grinding, not hammering and chopping. Cut holes and slots neatly to minimum size required, and with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use.
 - 2. Excavating and Backfilling: Comply with requirements in applicable Sections where required by cutting and patching operations.
 - 3. Proceed with patching after construction operations requiring cutting are complete.
- G. Patching: Patch construction by filling, repairing, refinishing, closing up, and similar operations following performance of other Work. Patch with durable seams that are as invisible as practicable, as judged by Architect. Provide materials and comply with installation requirements specified in other Sections, where applicable.
 - 1. Inspection: Where feasible, test and inspect patched areas after completion to demonstrate physical integrity of installation.
 - 2. Exposed Finishes: Restore exposed finishes of patched areas and extend finish restoration into retained adjoining construction in a manner that will eliminate evidence of patching and refinishing.
 - 3. Exterior Building Enclosure: Patch components in a manner that restores enclosure to a weathertight condition and ensures thermal and moisture integrity of building enclosure.
- H. Cleaning: Clean areas and spaces where cutting and patching are performed. Remove paint, mortar, oils, putty, and similar materials from adjacent finished surfaces.

3.5 PROGRESS CLEANING

- A. Clean Project site and work areas daily, including common areas. Enforce requirements strictly. Dispose of materials lawfully.
 - 1. Comply with requirements in NFPA 241 for removal of combustible waste materials and debris.

2. Do not hold waste materials more than seven days during normal weather or three days if the temperature is expected to rise above 80 deg F.
 3. Containerize hazardous and unsanitary waste materials separately from other waste. Mark containers appropriately and dispose of legally, according to regulations.
 - a. Use containers intended for holding waste materials of type to be stored.
 4. Coordinate progress cleaning for joint-use areas where Contractor and other contractors are working concurrently.
- B. Site: Maintain Project site free of waste materials and debris.
- C. Work Areas: Clean areas where Work is in progress to the level of cleanliness necessary for proper execution of the Work.
1. Remove liquid spills promptly.
 2. Where dust would impair proper execution of the Work, broom-clean or vacuum the entire work area, as appropriate.
- D. Installed Work: Keep installed work clean. Clean installed surfaces according to written instructions of manufacturer or fabricator of product installed, using only cleaning materials specifically recommended. If specific cleaning materials are not recommended, use cleaning materials that are not hazardous to health or property and that will not damage exposed surfaces.
- E. Concealed Spaces: Remove debris from concealed spaces before enclosing the space.
- F. Exposed Surfaces: Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.
- G. Waste Disposal: Do not bury or burn waste materials on-site. Do not wash waste materials down sewers or into waterways. Comply with waste disposal requirements in Section 01 5000 "Temporary Facilities and Controls."
- H. During handling and installation, clean and protect construction in progress and adjoining materials already in place. Apply protective covering where required to ensure protection from damage or deterioration at Substantial Completion.
- I. Clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period. Adjust and lubricate operable components to ensure operability without damaging effects.
- J. Limiting Exposures: Supervise construction operations to ensure that no part of the construction, completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.
- 3.6 PROTECTION AND REPAIR OF INSTALLED CONSTRUCTION
- A. Provide final protection and maintain conditions that ensure installed Work is without damage or deterioration at time of Substantial Completion.

- B. Repair Work previously completed and subsequently damaged during construction period. Repair to like-new condition.
- C. Protection of Existing Items: Provide protection and ensure that existing items to remain undisturbed by construction are maintained in condition that existed at commencement of the Work.
- D. Comply with manufacturer's written instructions for temperature and relative humidity.

END OF SECTION 01 7300

SECTION 01 7700 - CLOSEOUT PROCEDURES

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. Section includes administrative and procedural requirements for Contract closeout, including, but not limited to, the following:
 - 1. Substantial Completion procedures.
 - 2. Final completion procedures.
 - 3. Warranties.
 - 4. Final cleaning.
- B. Related Requirements:
 - 1. Section 01 2900 "Payment Procedures" for requirements for Applications for Payment for Substantial Completion and Final Completion.
 - 2. Section 01 7839 "Project Record Documents" for submitting Record Drawings, Record Specifications, and Record Product Data.

1.3 DEFINITIONS

- A. List of Incomplete Items: Contractor-prepared list of items to be completed or corrected, prepared for the Architect's use prior to Architect's inspection, to determine if the Work is substantially complete.

1.4 ACTION SUBMITTALS

- A. Product Data: For each type of cleaning agent.
- B. Contractor's List of Incomplete Items: Initial submittal at Substantial Completion.
- C. List of Incomplete Items: Final submittal at Final Completion.

1.5 CLOSEOUT SUBMITTALS

- A. Certificates of Release: From authorities having jurisdiction.
- B. Certificate of Insurance: For continuing coverage.

1.6 MAINTENANCE MATERIAL SUBMITTALS

- A. Schedule of Maintenance Material Items: For maintenance material submittal items required by other Sections.

1.7 SUBSTANTIAL COMPLETION PROCEDURES

- A. Contractor's List of Incomplete Items: Prepare and submit a list of items to be completed and corrected (Contractor's "punch list"), indicating the value of each item on the list and reasons why the Work is incomplete.
- B. Submittals Prior to Substantial Completion: Complete the following a minimum of 10 days prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request.
 - 1. Certificates of Release: Obtain and submit releases from authorities having jurisdiction, permitting Owner unrestricted use of the Work and access to services and utilities. Include occupancy permits, operating certificates, and similar releases.
 - 2. Submit closeout submittals specified in other Division 01 Sections, including Project Record Documents, operation and maintenance manuals, damage or settlement surveys, property surveys, and similar final record information.
 - 3. Submit closeout submittals specified in individual Sections, including specific warranties, workmanship bonds, maintenance service agreements, final certifications, and similar documents.
 - 4. Submit maintenance material submittals specified in individual Sections, including tools, spare parts, extra materials, and similar items, and deliver to location designated by Architect. Label with manufacturer's name and model number.
 - a. Schedule of Maintenance Material Items: Prepare and submit schedule of maintenance material submittal items, including name and quantity of each item and name and number of related Specification Section. Obtain Owner's signature for receipt of submittals.
 - 5. Submit testing, adjusting, and balancing records.
 - 6. Submit sustainable design submittals not previously submitted.
 - 7. Submit changeover information related to Owner's occupancy, use, operation, and maintenance.
- C. Procedures Prior to Substantial Completion: Complete the following a minimum of 10-days prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request.
 - 1. Participate with Owner in conducting inspection and walkthrough with local emergency responders.
 - 2. Terminate and remove temporary facilities from Project site, along with mockups, construction tools, and similar elements.
 - 3. Complete final cleaning requirements.
- D. Inspection: Submit a written request for inspection to determine Substantial Completion a minimum of 10-days prior to date the Work will be completed and ready for final inspection and tests. On receipt of request, Architect will either proceed with inspection or notify Contractor of

unfulfilled requirements. Architect will prepare the Certificate of Substantial Completion after inspection or will notify Contractor of items, either on Contractor's list or additional items identified by Architect, that must be completed or corrected before certificate will be issued.

1. Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.
2. Results of completed inspection will form the basis of requirements for Final Completion.

1.8 FINAL COMPLETION PROCEDURES

A. Submittals Prior to Final Completion: Before requesting final inspection for determining Final Completion, complete the following:

1. Submit a final Application for Payment in accordance with Section 01 2900 "Payment Procedures."
2. Certified List of Incomplete Items: Submit certified copy of Architect's Substantial Completion inspection list of items to be completed or corrected (punch list), endorsed and dated by Architect. Certified copy of the list shall state that each item has been completed or otherwise resolved for acceptance.
3. Certificate of Insurance: Submit evidence of final, continuing insurance coverage complying with insurance requirements.

B. Inspection: Submit a written request for final inspection to determine acceptance a minimum of 10 days prior to date the Work will be completed and ready for final inspection and tests. On receipt of request, Architect will either proceed with inspection or notify Contractor of unfulfilled requirements. Architect will prepare a final Certificate for Payment after inspection or will notify Contractor of construction that must be completed or corrected before certificate will be issued.

1. Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.

1.9 LIST OF INCOMPLETE ITEMS

A. Organization of List: Include name and identification of each space and area affected by construction operations for incomplete items and items needing correction including, if necessary, areas disturbed by Contractor that are outside the limits of construction.

1. Submit list of incomplete items in the following format:
 - a. PDF Electronic File: Architect will return annotated file.

1.10 SUBMITTAL OF PROJECT WARRANTIES

A. Time of Submittal: Submit written warranties on request of Architect for designated portions of the Work where warranties are indicated to commence on dates other than date of Substantial

Completion, or when delay in submittal of warranties might limit Owner's rights under warranty.

- B. Organize warranty documents into an orderly sequence based on the table of contents of Project Manual.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

PART 3 - EXECUTION

3.1 FINAL CLEANING

- A. General: Perform final cleaning. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ experienced workers or professional cleaners for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 1. Complete the following cleaning operations before requesting inspection for certification of Substantial Completion for entire Project or for a designated portion of Project:
 - a. Clean Project site of rubbish, waste material, litter, and other foreign substances.
 - b. Sweep paved areas broom clean. Remove petrochemical spills, stains, and other foreign deposits.
 - c. Rake grounds that are not planted, mulched, or paved to a smooth, even-textured surface.
 - d. Remove tools, construction equipment, machinery, and surplus material from Project site.
 - e. Remove snow and ice to provide safe access to building.
 - f. Clean exposed exterior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces.
 - g. Leave Project clean and ready for occupancy.
- C. Construction Waste Disposal: Comply with waste-disposal requirements in Section 01 5000 "Temporary Facilities and Controls."

3.2 REPAIR OF THE WORK

- A. Complete repair and restoration operations required by Section 01 7300 "Execution" before requesting inspection for determination of Substantial Completion.

END OF SECTION 01 7700

SECTION 01 7839 - PROJECT RECORD DOCUMENTS

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. Section includes administrative and procedural requirements for Project Record Documents, including the following:
 - 1. Record Drawings.
- B. Related Requirements:
 - 1. Section 01 7700 "Closeout Procedures" for general closeout procedures.

1.3 CLOSEOUT SUBMITTALS

- A. Record Drawings: Comply with the following:
 - 1. Number of Copies: Submit one set(s) of marked-up record prints.

1.4 RECORD DRAWINGS

- A. Record Prints: Maintain one set of marked-up paper copies of the Contract Drawings and Shop Drawings, incorporating new and revised drawings as modifications are issued.
 - 1. Preparation: Mark record prints to show the actual installation, where installation varies from that shown originally. Require individual or entity who obtained record data, whether individual or entity is Installer, subcontractor, or similar entity, to provide information for preparation of corresponding marked-up record prints.
 - a. Give particular attention to information on concealed elements that would be difficult to identify or measure and record later.
 - b. Accurately record information in an acceptable drawing technique.
 - c. Record data as soon as possible after obtaining it.
 - d. Record and check the markup before enclosing concealed installations.
 - e. Cross-reference record prints to corresponding photographic documentation.
 - 2. Content: Types of items requiring marking include, but are not limited to, the following:
 - a. Dimensional changes to Drawings.

- b. Revisions to details shown on Drawings.
 - c. Locations of concealed utilities.
 - d. Changes made by Change Order or Construction Change Directive.
 - e. Changes made following Architect's written orders.
 - f. Details not on the original Contract Drawings.
 - g. Field records for variable and concealed conditions.
 - h. Record information on the Work that is shown only schematically.
 3. Mark the Contract Drawings and Shop Drawings completely and accurately. Use personnel proficient at recording graphic information in production of marked-up record prints.
 4. Mark record prints with erasable, red-colored pencil. Use other colors to distinguish between changes for different categories of the Work at same location.
 5. Mark important additional information that was either shown schematically or omitted from original Drawings.
 6. Note Construction Change Directive numbers, alternate numbers, Change Order numbers, and similar identification, where applicable.
- B. Format: Identify and date each Record Drawing; include the designation "PROJECT RECORD DRAWING" in a prominent location.
 1. Record Prints: Organize record prints into manageable sets. Bind each set with durable paper cover sheets. Include identification on cover sheets.
 2. Identification: As follows:
 - a. Project name.
 - b. Date.
 - c. Designation "PROJECT RECORD DRAWINGS."
 - d. Name of Architect.
 - e. Name of Contractor.

1.5 MAINTENANCE OF RECORD DOCUMENTS

- A. Maintenance of Record Documents: Store Record Documents in the field office apart from the Contract Documents used for construction. Do not use Project Record Documents for construction purposes. Maintain Record Documents in good order and in a clean, dry, legible condition, protected from deterioration and loss. Provide access to Project Record Documents for Architect's reference during normal working hours.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 7839