COMMISSIONERS COURT COMMUNICATION

COURT ORDER NUMBER <#CourtOrderNumber#>

DATE: 2/19/2025

SUBJECT: **CONSIDERATION OF ADDENDUM TO THE CONSTRUCTION MANAGER AT RISK CONTRACT WITH HM & MF LTD., D/B/A MUCKLEROY & FALLS FOR THE GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION SERVICES FOR THE PLAZA PARKING GARAGE EXPANSION**

***** CONSENT AGENDA *****

COMMISSIONERS COURT ACTION REQUESTED

It is requested that the Commissioners Court consider accepting an Addendum to the Construction Manager at Risk (CMAR) contract with HM & MF Ltd., d/b/a Muckleroy & Falls for the Guaranteed Maximum Price (GMP) for Construction Services for the Plaza Parking Garage Expansion, located at 601 West Weatherford Street, Fort Worth.

BACKGROUND

On November 12, 2024, the Commissioners Court, through Court Order #144160, approved RFP No. F2024161, Construction Management at Risk for Plaza Parking Garage Expansion to Muckleroy & Falls for Phase 1 Preconstruction Services to execute the development of the project GMP.

The purpose of this Addendum is to execute Phase 2 of the CMAR contract to provide Construction Services within a GMP for the expansion of the Plaza Parking Garage. The Construction Manager Services for Phase 2 are outlined in the attached Exhibit A.

The expansion will provide approximately 303 additional parking spaces to the existing garage for an expected total of 800 parking spaces. The increase to the budgeted amount for construction is a result of additional requirements from the authorities having jurisdiction including but not limited to fire suppression system, traffic light improvements, exterior panels, and the unforeseen relocation of the main power distribution system.

Facilities Management applied for and was awarded a grant of $306,040 from the Department of Energy (DOE), which was approved by Commissioners Court through Court Order #143395 for the purchase and installation of the LED lighting for this project.

The Guaranteed Maximum Price from Muckleroy & Falls is $12,433,999.00.

The Criminal District Attorney's Office has reviewed this contract as to form.

FISCAL IMPACT

SUBMITTED BY	Facilities Management	PREPARED BY:	Milissa Warner
		APPROVED BY:	Michael Amador

Funding in the amount of $12,433,999.00 for Phase 2 of the project is available in account 45100-2025 Non-Debt Capital/3110608000 Parking Plaza Garage/540000 Capital Outlay.

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and Construction Manager

For

Construction Services

For the

Plaza Parking Garage Expansion

with

Muckleroy & Falls

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STATE OF TEXAS §
§
COUNTY OF TARRANT §

CONTRACT AMENDMENT TO PROFESSIONAL SERVICES CONTRACT FOR CONSTRUCTION SERVICES

This contract amendment is entered into between Tarrant County, Texas, hereinafter referred to as COUNTY, and HM & MF Ltd. d/b/a Muckleroy & Falls, hereinafter referred to as "CONSTRUCTION MANAGER", for the purpose of providing Phase 2 - Construction Services for RFP F2024161 Construction Management at Risk for Plaza Parking Garage Expansion. In consideration of the mutual promises and agreements contained herein, the County and Construction Manger agree as follows:

SCOPE OF SERVICES

Construction Manager shall provide Phase 2 - Construction Services (the "Services") for RFP F2024161Construction Management at Risk for Plaza Parking Garage Expansion, (the "Project").

The Contract Documents consist of the following:

- This Professional Services Contract Amendment
- The Professional Services Contract executed on May 7, 2024
- Tarrant County's Request for Proposal (RFP) F2024161 Construction Management at Risk for Plaza Parking Garage Expansion, RFP Documents
- Bennett Partners Specifications and Drawings
- The Provider's response to RFP F2024161 Construction Management at Risk for Plaza Parking Garage Expansion
- Any attachments and exhibits attached hereto, conditions of the contract (special, supplementary and other conditions), all addenda issued prior to execution of this Agreement and all modifications issued subsequent thereto.

To the extent of an ambiguity among the various documents, this signed Agreement prevails. These documents collectively form the Contract, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

The Architect/Engineer for the Project is Bennett Partners located at 640 Taylor Street, Suite 2323, Fort Worth Texas, 76102.

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19. Exhibit “G” – Byrd Anti-Lobbying Certification

ARTICLE 1
THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT

The CONSTRUCTION MANAGER accepts the relationship of trust and confidence established between him and the Owner by this Agreement. He covenants with the Owner to furnish his best skill and judgment and to cooperate with the Architect/Engineer in furthering the interests of the Owner. He agrees to furnish efficient business administration and superintendence and to use his best efforts to complete the Project within an approved Construction Schedule consistent with the interest of the Owner.

1.1 The Construction Team: The Construction Manager, the Owner, or designated representative of Tarrant County Facilities Management and the Architect/Engineer called the "Construction Team" will work from a Notice to Proceed from the Owner through construction completion. The Construction Manager will provide leadership to the Construction Team on all matters relating to construction.

1.2 Extent of Agreement: This Agreement represents the entire agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations, or agreements. This Agreement includes the General Conditions of the Contract for Construction (AIA Document A201-2007) as modified by the attached Supplementary Conditions of Tarrant County. This Agreement will not be superseded by any provisions of the documents for construction unless amended by subsequent written instrument signed by both the Owner and the Construction Manager. The Construction Manager has performed pre-construction phase services for this Project under a prior contract. To the extent the work pursuant to that contract has not concluded, that contract remains in force and effect and is not superseded by this Agreement.

1.3 Definitions: The Project is the total construction to be performed under this Agreement. The Work is that part of the Construction Phase Services that the Construction Manager is to perform or that part of the construction that a particular Trade Contractor under contract with the Construction Manager is to perform. The term day will mean calendar day unless otherwise specifically designated.

ARTICLE 2
CONSTRUCTION MANAGER'S SERVICES

The CONSTRUCTION MANAGER will perform the following services:

2.1 Pre-Construction Phase Services

The services normally described in this section as Pre-Construction Services were performed pursuant to a prior contract referenced as Tarrant County Commissioners Court Order No144160, Approved 12 November 2024.

2.2 Construction Phase Services:

2.2.1 Project Control: Monitor the Work of the Trade Contractors and coordinate the Work with the activities and responsibilities of the Owner, Architect/Engineer and Construction Manager to complete the Project in accordance with the Owner's objectives of cost, time, quality and safety all of which are enumerated in the contract documents for construction.

2.2.1.1 Maintain a competent full-time staff at the Project site to coordinate and provide general direction of the Work and progress of the Trade Contractors on the Project.

2.2.1.2 Establish on-site organization and lines of authority in order to carry out the overall plans of the Construction Team.

2.2.1.3 Establish procedures for coordination among the Owner, Architect/Engineer, Trade Contractors, and Construction Manager with respect to all aspects of the Project and implement such procedures.

2.2.1.4 Schedule and conduct progress meetings at which Trade Contractors, Owner, Architect/Engineer and Construction Manager can discuss jointly such matters as procedures, progress, problems and scheduling.

2.2.1.5 Provide regular monitoring of the schedule as construction progresses. Identify potential variances between scheduled and probable completion dates. Review the schedule for Work not started or incomplete and recommend to the Owner and Trade Contractors adjustments in the schedule to meet the probable completion date. Provide summary reports for each adjustment and document all changes in the schedule.

2.2.1.6 Determine the adequacy of the Trade Contractors' personnel and equipment and the availability of materials and supplies to meet the schedule. Recommend courses of action to the Owner when requirements of a Trade Contract are not being met.

2.2.1.7 Construction Manager will submit a proposed Project Schedule “Exhibit C” for Owner's acceptance and provided monthly updates of the schedule. The proposed Project Schedule will include a detailed and comprehensive construction schedule utilizing a critical path method arrow diagram network that (i) shows all major design, procurement and construction elements and phases of the Project and Owner furnished items with milestone dates; (ii) breaks down each element or phase by trade; (iii) shows early and late start dates so that all "float" time will be accurately identified; (iv) clearly identifies critical path activities; (v) discloses relationship in number of days and types of linkage between all linked activities; (vi) identifies, coordinates and integrates design and construction schedules, Owner's responsibilities, governmental approvals, early access dates for

certain portions of the Work by Owner, and other activities necessary for the timely completion of the Project in accordance with the scheduled dates of Substantial and Final Completion; and (vii) otherwise is in a form satisfactory to Owner. Owner's acceptance is expressly limited to Owner's acknowledgment that based upon Owner's limited review, the dates of Substantial Completion and milestone dates are acceptable and the latest dates of Owner-provided information, materials, approvals and the like identified in the Project Schedule are reasonable.

2.2.1.8 Phased Construction: The Construction Manager, in consultation with the Architect/Engineer, will provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager will take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

2.2.1.9 The Construction Manager will provide the monthly update schedule in the format described in 2.2.1.7 and provide a monthly update sheet entitled "Project Critical Path This Month and 3 Month Look Ahead". Construction Manager will provide a fully updated schedule as part of their monthly progress payment application and include the listing of critical path activities separately in tabular format (Microsoft Office Word or Excel document). This list will include the critical path activities (completed percentage of each and those not completed) for the month of the current progress payment application and the upcoming 3 months ahead (Month 1, Month 2 and Month 3, all listed as separate months). The document should be titled "Project Critical Path This Month and the 3 Month Look Ahead" and be part of the agenda for each Owner/Architect/Contractor (OAC) meeting.

2.2.2 The Construction Manager will advertise, as prescribed under Section 2269.255 through 2269.256 of the Texas Government Code and receive bids from Trade Contractors for the performance of all major elements of the work other than work categorized as General Conditions. The Construction Manager will prepare bid documents setting forth criteria for the selection of responsible bidders and for selection of the lowest and best bid. Owner has discretion to modify the Trade Contractor criteria in the manner the Owner believes meets the requirements of Texas law and the Guaranteed Maximum Price (GMP).

2.2.2.1 The Construction Manager may seek to perform portions of the work if the Construction Manager submits its bid for those portions of the work in the same manner as all other trade contractors and if the County independently determines that the Construction Manager's bid provides the best value for the County. In the event that the Construction Manager submits a bid for a portion of the Work, the County will conduct the review contemplated by Section 2.2.2.2 without the assistance of the Construction Manager.

2.2.2.2 The Construction Manager and the County or its representative will review all trade contractor bids in a manner that does not disclose the contents of the bid during the selection process to a person not employed by the construction manager-at-risk, engineer, architect, or governmental entity. All bids will become public in accordance with Texas law.

2.2.3 Cost Control: Develop and monitor an effective system of Project cost control. Incorporate approved changes in authorized Work as they occur and develop cash flow reports and forecasts as needed. Scope changes and costs will be approved and authorized

by the Owner prior to performing the Work.

2.2.3.1 Maintain cost accounting records on authorized Work performed under unit costs, actual costs for labor and material, or other bases requiring accounting records, unless provided for by the Trade Contractor. Afford the Owner access to these records and preserve them for a period of three (3) years after final payment.

2.2.4 Change Orders: Develop and implement a system for the preparation, review and processing of Change Orders. Recommend necessary changes to the Owner and the Architect/Engineer, review requests for changes, submit recommendations to the Owner and the Architect/Engineer, and assist in negotiating Change Orders. The Construction Manager will create a Change Order Log for tracking purposes for the construction team. This document will be kept up to date throughout the life of the project and become part of the OAC meeting agenda.

2.2.5 Payments to Trade Contractors: Develop and implement a procedure for the review, processing and payment of applications by Trade Contractors for progress and final payments. The Construction Manager will pay Trade Contractors the appropriate share of any payment received from the Owner not later than the 10th day after the date such payment is received by the Construction Manager and until such time that subcontractor and subcontractor's vendor(s) submits appropriate lien waivers. The foregoing requirement does not apply to any payment withheld because of a bona fide dispute between the Construction Manager and a Trade Contractor.

2.2.6 Permits and Fees: The Owner and Architect/Engineer will have obtained and paid for all building permits and special permits for permanent improvements, excluding permits for inspection or temporary facilities required to be obtained directly by the various Trade Contractors. Assist in obtaining approvals from all the authorities having jurisdiction. The Owner will pay for the permit and all utility assessment fees.

2.2.7 Owner's Consultants: If required, assist the Owner in selecting and retaining professional services of a surveyor, testing laboratories and special consultants, and coordinate these services, without assuming any responsibility or liability of or for these consultants.

2.2.8 Inspection: Inspect the Work of Trade Contractors for defects and deficiencies in the Work.

2.2.8.1 Provide a project and site-specific safety program to be submitted and approved by the Owner and Architect/Engineer prior to the submission of the first application for payment and prior to the start of Work. Review the safety programs of each of the Trade Contractors. The Construction Manager will retain overall responsibility for safety precautions and programs in the performance of the Work, including the Trade Contractors. While this paragraph establishes the responsibility for safety between the Owner and the Construction Manager, it does not relieve Trade Contractors of their responsibility for the safety of persons or property in the performance of their work, nor for their compliance with the provisions of applicable federal, state and local law, regulations and orders applicable to the conduct of the Work.

2.2.8.2 Quality Review: The Construction Manager will establish and implement a program to monitor the quality of the construction. The program will protect the Owner from defects and deficiency in the work of the Trade Contractors. The

Construction Manager must reject work and transmit to the Trade Contractor or Construction Team a notice of nonconforming work when it is the opinion of the Construction Manager that the Work does not conform to the requirements of the Contract Documents. Except for minor variations as stated herein, the Construction Manager is not authorized as part of this contract to change, evoke, relax, alter, or release any requirement of the Construction Documents or to approve or accept any portion of the Work not performed in accordance with the Construction Documents.

2.2.9 Document Interpretation: Refer all questions for interpretation of the documents prepared by the Architect/Engineer to the Architect/Engineer and a copy to the Owner.

2.2.10 Shop Drawings and Samples: In collaboration with the Architect/Engineer, establish and implement procedures for expediting the processing and Architect/Engineer's approval of shop drawings, samples, and other submittals. Receive from the Trade Contractors and review all such submittals, coordinate them with the information contained in related documents, and transmit them to the Architect/Engineer for approval. The submittal management by the Construction Manager will include a submittal log approved by the Construction Team, and transmittal of all submittals must be documented using a Project Management Information System of the Construction Manager's choice. Documentation through email alone will not be allowed.

2.2.11 Reports and Project Site Documents: Record the progress of the Project. Submit monthly written progress reports to the Owner and the Architect/Engineer including information on the Trade Contractors' Work, and the percentage of completion. Keep a daily log available to the Owner and the Architect/Engineer. Submit the daily logs to the Owner and Architect/Engineer monthly.

2.2.11.1 Maintain at the Project site, on a current basis: records of all necessary Contracts, Drawings, samples, purchases, materials, equipment, maintenance and operating manuals and instructions, and other construction related documents, including all revisions. Obtain data from Trade Contractors and maintain a current set of record and as-built Drawings, Specifications and operating manuals. Review as-built/record drawings each month prior to sign-off of Trade Contractor applications for payment to determine if documents are being kept up to date. At the completion of the Project, deliver clear and accurate hard and digital copies of all records and as-built drawings to the Architect/Engineer for review prior to submitting to the Owner as part of the Closeout Documents.

2.2.12 Substantial Completion: The Contract determines the date of Substantial Completion of the Work. At the time of Substantial Completion or designated portions thereof, prepare for the Architect/Engineer a list of incomplete or unsatisfactory items and a schedule for their completion. Develop and maintain a rolling punch list to minimize the final punch list.

2.2.13 Start-Up: With the Owner's maintenance personnel, direct the checkout of utilities, operations systems and equipment for readiness and assist in their initial start-up and testing by the Trade Contractors. Prior to Owner's maintenance personnel acceptance, the Construction Manager will verify that the Work has been completed in accordance with the contract documents and is ready for the Owner's operation. Construction Manager will debug the system and prepare the list of minor deficiencies.

2.2.14 Final Completion: Determine final completion and provide written notice to the Owner and Architect/Engineer that the Work is ready for final inspection. Secure and transmit to the

Architect/ Engineer required guarantees, affidavits, releases, bonds and waivers. Turnover to the Owner all keys, manuals, record drawings, maintenance stocks, and all other Closeout Documents required by the Contract Documents.

2.2.15 Warranty: Where any Work is performed by the Construction Manager's own forces or by Trade Contractors under contract with the Construction Manager, the Construction Manager will warrant that all materials and equipment included in such Work will be new, unless otherwise specified by the Contract Documents, and that such Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Drawings and Specifications. 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 any other provision of the Contract Documents, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the Requirements of the Contract Documents, the Construction Manager will correct it promptly after receipt of written notice from the Owner to do so. The Owner will give this notice promptly after discovery of the condition. The Construction Manager will collect and deliver to the Owner any specific written warranties given by others. If Construction Manager fails or refuses to correct the Work in accordance with its obligations under the Contract Documents after written notice from the Owner, then Owner may correct the Work and Construction Manager will remain liable for the costs to correct the Work, any related architectural, engineering or other consulting costs, legal fees and expenses and fines or penalties, if any. Any amounts due to Owner from Construction Manager under this Paragraph will be deducted from the GMP by a Change Order. If the balance remaining in the GMP is not sufficient to cover the amounts due, the Construction Manager must pay to Owner the amount remaining due. The foregoing warranty does not cover normal wear and tear and/or damage where the non-conformance is due to abuse, lack of proper maintenance or casualty losses.

2.2.16 Conduct with the Owner and Architect, post-completion inspections during the one (1) year warranty period to ascertain defects in material and workmanship and determine corrective action. Assign, if possible, the causes of the defects, the responsible Trade Contractor, and recommend reasonable corrective action. Aid the Owner in obtaining this corrective action and in filing insurance and bond claims where coverage is available. Ultimate responsibility for correcting defects in material and workmanship will rest with the Construction Manager at no expense to the Owner.

2.2.17 Conduct with the Owner and Architect a Final Warranty Inspection within thirty (30) days of the end of the one (1) year warranty period.

2.2.18 Coordinate construction and operations of the work with Owner's portion of the work. Inform Owner of preferred construction schedule for owner's portion of the work. Adjust construction schedule based on a mutually agreeable timetable.

2.2.19 Assist the Owner with the coordination of built-in, Owner-furnished equipment, furniture, and furnishings.

2.2.20 After taking all steps necessary to assure that the Trade Contractors perform their contracts in accordance with their terms, the Construction Manager will notify the Owner of the necessity of any legal action including but not limited to litigation, mediation, etc. against the Trade Contractor.

2.3 Additional Services

2.3.1 At the request of the Owner the Construction Manager will provide the following additional services upon written agreement between the Owner and Construction Manager defining the extent of such additional services and the amount and manner in which the Construction Manager will be compensated for such additional services.

2.3.2 Services related to investigation, appraisals or valuations of existing conditions, facilities or equipment, or verifying the accuracy of existing drawings or other Owner-furnished information.

2.4 Standard of Care

2.4.1 Construction Manager will proceed with sufficient qualified personnel necessary to expedite and fully complete all Services required under this Contract in the highest professional manner consistent with the requirements of the Contract Documents.

2.4.2 Construction Manager's personnel assigned to the Project may be subject to Owner's approval, and no change in key personnel set out in the organization chart will be made unless approved by Owner. Owner may request replacement of any employee assigned by Construction Manager to the Project with reasonable cause and with agreement by the Construction Manager.

2.4.3 The Construction Manager covenants with the owner to furnish its skills and judgment with due care in accordance with applicable federal, state and local laws and regulations.

ARTICLE 3
OWNER'S RESPONSIBILITIES

3.1 The Owner will provide full information regarding his requirements for the Project.

3.2 The Owner may designate in writing a representative who will be fully acquainted with the Project and has authority to issue and approve Project Construction Budgets, issue Change Orders, render decisions promptly and furnish information expeditiously. This representative has the authority outlined in 6.5. Any limitations of the foregoing will be indicated to the Construction Manager in writing. The Construction Manager agrees that any of the above decisions increasing the guaranteed maximum price and the project time will be made by the Tarrant County Commissioners Court in a properly noticed session.

3.3 The Architect, employed by the Owner, has provided design services and prepared construction documents for the project. The Construction Manager is not responsible for the accuracy or completeness of the construction documents prepared by the design professionals employed by Owner. The Construction Manager is responsible for notifying in writing the Architect/Engineer of any issues discovered by the Construction Manager immediately upon discovery.

3.4 The Owner will furnish for the site of the Project all necessary surveys describing the physical characteristics, soil reports and subsurface investigations, legal limitations, utility locations, and a legal description. These surveys describe the physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information will include, as applicable, grades and lines of streets, alleys, pavements and

adjoining property and structures; adjacent drainage; rights-of- way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade. All information on the site survey will be referenced to a project benchmark. All site survey data was provided by the Owner as part of the Contract Documents. Any additional surveying required for construction will be the responsibility of the Construction Manager.

3.5 The Owner will secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.6 The Owner will furnish such legal services as may be necessary for providing the items set forth in Paragraph 3.5 and such auditing services as may berequired.

3.7 The Construction Manager will be furnished without charge all copies of Drawings and Specifications reasonably necessary for the execution of the Work.

3.8 The Construction Manager will provide the insurance for the Project as provided in Paragraph 9.2 and 9.4.

3.9 The services, information, surveys and reports required by the above paragraphs or otherwise to be furnished by other consultants employed by the Owner, will be furnished with reasonable promptness at the Owner's expense and the Construction Manager will be entitled to rely upon the accuracy and completeness thereof.

3.10 If the Owner becomes aware of any fault or defect in the Project, or nonconformance with the Drawings and Specifications, he will give prompt written notice thereof to the Construction Manager and visa-versa.

3.11 The Owner will communicate with the Trade Contractors only through the Construction Manager.

3.12 The Owner will be responsible for the removal, encapsulation, transportation, and disposal of any hazardous material, including without limitation, any asbestos or asbestos- related products as may be required in connection with the preparation of the Project site. However, the Owner may direct the Construction Manager to supervise and oversee trade contractors performing the abatement work without the Construction Manager assuming any liability of or for said trade contractors.

3.13 The Owner will provide or contract for, independently of the Construction Manager, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the Owner.

ARTICLE 4
SCHEDULE

4.1 At the time a Guaranteed Maximum Price is established, as provided for in Article 5, the Construction Manager will establish a Date of Substantial Completion of the Project.

4.2 The Date of Substantial Completion of the Project is determined by the Contract. Substantial Completion or a designated portion thereof is when construction is sufficiently complete in accordance with the Drawings and Specifications so the Owner can occupy or utilize the Project or

designated portion thereof for the use for which it is intended. Warranties called for by this Agreement or by the Drawings and Specifications will commence on the Date of Substantial Completion of the Project or designated portion thereof. Substantial Completion can also be obtained prior to a Certificate of Occupancy.

4.3 If the Construction Manager is delayed at any time in the progress of the Project by any act or neglect of the Owner or the Architect/Engineer or by any employee of either, or by any separate contractor employed by the Owner, or by changes ordered in the Project, or by labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Construction Manager's control and substantiated by the Critical Path Schedule, the Substantial Completion Date may within reason be extended by Change Order. Decisions that require the approval of the Tarrant County Commissioners Court need to allow for adequate time for preparation and inclusion in the Court Schedule and Agenda before a delay can be claimed. This period may be up to 30 days for the bi-monthly Court Sessions.

4.4 Limitation of Damages for Delays by Construction Manager

In the event the Construction Manager fails to achieve Substantial Completion by the date set forth in the GMP Modification, such date may be extended up to 30 days for any increases in performance time to which the Construction Manager is entitled under the terms of this Contract. Although liquidated damages per day are not assessed by the Owner, the Construction Manager will be liable to Owner for any direct or consequential damages suffered, specifically including the additional cost to Owner of any Architect and Project Manager services (not to exceed $200 per hour or $500 per day) resulting from the time extension beyond 30 days due to delays in completing the Work. In no event will the Construction Manager's total liability to the Owner for damages, direct and consequential, be greater than the amount of the Construction Manager's Fee as set forth in paragraph 5.4.4 below.

ARTICLE 5
GUARANTEED MAXIMUM PRICE AND CONSTRUCTION MANAGER COMPENSATION

5.1 Deliverables

The Construction Manager will prepare and deliver to the Owner a Guaranteed Maximum Price ("GMP") proposal. The Construction Manager will, at a minimum, include in the GMP proposal:

5.1.1 a recital of the specific Construction Documents and their issuance dates, including drawings, specifications, and all addenda there to, used in preparation of the GMP proposal;

5.1.2 the elements of the GMP, including:

a) A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract

b) General Conditions itemized by line item with detail and cost of each line.

c) Trade Contracts cost, detailed by each subcontract, trade or bid division.

d) Construction Phase Services cost.

e) Construction Management Fee cost and Staffing Plan.

g) Bonds cost.

h) Any work to be self-performed by the Construction Manager and cost.

i) Other costs as determined by the CM and Owner.

j) Certificates of Insurance

5.1.3 a description of all assumptions, clarifications and other inclusions to or exclusions from the GMP;

5.1.4 a list of allowances and a statement of their basis;

5.1.5 the proposed Date of Substantial Completion upon which the GMP is based;

5.1.6 an outline of preliminary Construction Schedule showing proposed start and finish dates of major components of construction;

5.1.7 a Construction Manager staffing plan that breaks down the required Construction Manager staff (including any consultants or teamed members of the Construction Manager that are to be paid from the Construction Phase Services).

5.2 Price Guarantees

5.2.1 Construction Manager is responsible for all costs, expenses and fees, as defined in paragraph 5.1.2 above, incurred in excess of the GMP plus any adjustments thereto to which the Construction Manager is entitled under the terms of this Contract.

5.3 Guaranteed Maximum Price

The Construction Manager will select the Trade Contractors in accordance with 2.2.2 herein and then provide a Guaranteed Maximum Price to the Owner as Exhibit "A" of this contract. Such Guaranteed Maximum Price will be subject to modification for changes in the project as provided in this Contract. Any savings from the bids will be returned to the Owner by the Construction Manager. There will not be a guarantee for the value of any individual line item contained in the GMP other than the Construction Manager fee and the GMP itself.

5.4 Cost Components of the Guaranteed Maximum Price

5.4.1 Trade Contracts: Construction Manager will select Trade Contracts in compliance with Section 2269.256 of the Texas Government Code.

If the Owner refuses to accept a Trade Contractor recommended by the Construction Manager in accordance with the procedures proscribed by Section 2269.256 of the Texas Government Code , the Construction Manager will recommend an acceptable substitute and the Owner will compensate the Construction Manager by a change in price, time, or Guaranteed Maximum Price for any additional cost and risk that the Construction Manager may incur because of the governmental entity's requirement that another bid be accepted.

Trade Contracts will be between the Construction Manager and the Trade Contractors.

Payments made by the Construction Manager to Trade Contractors for Work performed pursuant to Trade Contracts under this Agreement will be forwarded to the Trade Contractors in accordance with the applicable Trade Contract and Section 2.2.5 of this Agreement.

Trade Contracts will be with the Construction Manager, and will contain the necessary provisions, in the Construction Managers opinion, to allow the Construction Manager to control the performance of the Work.

5.4.2 General Conditions: General Conditions are the provision of facilities or performance of work by the Construction Manager through separate contracts or purchase orders for items which do not lend themselves readily to inclusion in one of the separate Trade Contracts. At the time the Guaranteed Maximum Price is established, the cost of the General Conditions will be a total of $587,556.00 over the course of construction. The General Conditions will be billable to the Owner by the Construction Manager each month (without any additional markup and less retainage) from the above stated total at a mutually agreed upon percentage of the Work completed.

5.4.2.1 The General Conditions or General Requirements items may include (but are not limited to) the following: field office rental charges, furniture, set-up, maintenance and repair, utilities, janitorial service and office equipment; computers, software and maintenance; copy machines, supplies and maintenance; telephone, communications and radios; stationary, messenger and postage; drinking water; first aid supplies; printing costs other than contract drawings; field office travel; surveyor services, equipment and supplies; project signage; project photos; field staff vehicles or auto allowances, insurance and maintenance; miscellaneous permits; AGC dues; jobsite safety incentive programs and random employee drug testing; temporary toilets; temporary fencing; rubbish removal and cleanup; glass cleaning; temporary power consumption during construction and start up power costs; jobsite security; temporary fire extinguishers; temporary storage requirements for long lead items and minor construction work when it is not feasible for the Construction Manager to secure competitive bids thereon. The General Conditions items described in this paragraph may be provided by the Owner under separate contracts or incorporated into other Trade Contracts.

5.4.2.2 At the time the Guaranteed Maximum Price is established, the cost of the General Requirements will be a total of $1,735,221.00 over the course of the construction. The General Requirements will be billable to the Owner by the Construction Manager each month (without any additional markup and less retainage) at a mutually agreed upon percentage of the Work completed.

5.4.3 Construction Phase Services: For the Services performed by the Construction Manager as described in Paragraph 2.2, the Construction Manager will be paid as a percentage of the total net cost of the Work and will include the following:

(a) Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site or, with Owner's approval at off-site workshops. Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law, the Construction Manager's standard fringe benefits such as sick leave, medical and health benefits, holidays, vacations, training, and allowed absences and pensions.

allowed absences and pensions.

(b) Compensation for the Construction Manager's employees in the home or regional office performing the functions of Construction Supervision (including Project Executive), Estimating, Scheduling, Purchasing, Accounting, Safety and Cost Control, and will include the cost of its standard employee fringe benefits, medical and workers' compensation insurance and taxes for such items as unemployment compensation and Social Security.

Payment for the Construction Phase Services will be made to the Construction Manager monthly for the completed percentage of the Cost of Work.

The Construction Manager will provide the Construction Manager's Staffing Plan for the Project as part of the GMP. The Staffing Plan will list the required Construction Manager staff (including any consultants or teamed members of the Construction Manager that are to be paid from the Construction Phase Services). The Staffing Plan will identify the titles of the staff and the key activities and responsibilities of each staff, consultant, or teamed member firm. The Staffing Plan will include the percentage of time allocated to the Project for each staff, consultant or teamed member firm (i.e. If the staff member will not be on-site 100% of their time on the Owner's Project or will be assigned to other non-Project duties, then the staffing plan needs to reflect the percentage that will be allocated to the Owner's Project).

5.4.3.1 For Changes in the project as provided in Article 6 the Construction Phase Services amount will be adjusted by Change Order.

5.4.4 Construction Services Fee: In consideration of the performance of the Contract, the Owner will pay the Construction Manager a Construction Manager's Fee of $417,687.00. For services performed, the Construction Manager's Fee will be billable to the Owner by the Construction Manager each month (less retainage).

Adjustments in Fee will be made in compliance with Article 6.

Included in the Construction Manager's Fee are the following:

(a) Salaries or other compensation of the Construction Manager's employees at the principal office and branch offices, except as included in Construction Phase Services defined above;

(b) General operating expenses of the Construction Manager's principal and branch offices other than the field office;

(c) Any part of the Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the project;

(d) Overhead or general expenses of any kind, except as may be expressly included in the General Conditions or in Construction Phase Services defined above; and

(e) Cost in excess of the Guaranteed Maximum Price.

5.4.5 Construction Contingency: The Guaranteed Maximum Price will contain a separately identified contingency factor (the "Contractor's Contingency") in the amount

of $342,600.00. The Construction Contingency is not allocated to any particular item of the Cost of the Project and is established for the Construction Manager's use as may be required for costs incurred in the Work from unforeseen causes or details which should have been anticipated by the Construction Manager at the time of the Owner's approval of the Guaranteed Maximum Price. Such unanticipated causes or details include, but are not limited to, refinement of details of design within the scope of standards, quality and quantities which are reasonably inferable from the Guaranteed Maximum Price documents, the correction of minor defects not relating to design, delays in receipt of materials due to the fault of the Construction Manager, corrections in the Work provided the Construction Manager has exhausted all reasonable means to obtain correction of same from the responsible Trade Contractor, labor and material overruns, and additional costs relating to Trade Contractor defaults, provided any such default is not due to the Owner's actions or failure to act, costs incurred by the Owner caused by the Construction Manager or Trade Contractors such as additional roof inspection, additional furniture move costs, furniture damage and costs associated with more than two (2) punch list visits to the same area. In the event the default of a Trade Contractor is due to the Owner's actions or failure to act, the Construction Manager will be entitled to an appropriate adjustment in the Guaranteed Maximum Price in accordance with the terms of this Agreement. The Construction Manager may utilize the Construction Contingency for any items within the Cost of the Project without the necessity of a Change Order, without constituting a Change in the Project, and without resulting in any change in the Guaranteed Maximum Price. At the conclusion of the project any remaining balance in the Construction Contingency becomes the property of the Owner. The Construction Contingency will not be used to increase the Construction Manager's fee. Construction manager to document costs funded by this contingency and communicate in writing with the Owner for informational purposes prior to incurring costs.

5.4.6 Other Costs

5.4.6.1 Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof.

5.4.6.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, vehicles, temporary facilities and hand tools not owned by the workmen, which are employed or consumed in the performance of the Work, and less salvage value on such items used but not consumed which remain the property of the Construction Manager.

5.4.6.3 Rental charges of all necessary machinery and equipment, exclusive of hand tools, used at the site of the Project, whether rented from the Construction Manager or others, including installation, repairs and replacements, dismantling, removal, costs of lubrication, transportation, and delivery costs thereof, at rental charges consistent with those prevailing in the area.

5.4.6.4 Cost of the premiums and deductible amounts for all insurance and bonds which the Construction Manager is required to procure by this Agreement or is deemed necessary by the Construction Manager on approval of the Tarrant County Commissioners Court, which approval will not be unreasonably withheld.

5.4.6.5 Sales, use, gross receipts, or similar taxes related to the Project imposed by any governmental authority, and for which the Construction Manager is liable.

5.4.6.6 The Building Permit fees and use fees are paid by the Owner. All additional trade permit fees and any fee due to re-inspection or compliance with inspections regarding permits

are the responsibility of the Construction Manager. Other permit fees, licenses, tests, royalties, damages for infringement of patents and costs of defending suits therefore, and deposits lost for causes other than the Construction Manager's negligence are the Construction Manager's responsibility. If royalties or losses and damages, including costs of defense, are incurred which arise from a particular design, process, or the product of a particular manufacturer or manufacturers specified by the Owner or Architect/Engineer, and the Construction Manager has no reason to believe there will be infringement of patent rights, such royalties, losses and damages will be paid by the Owner and not considered as within the Guaranteed Maximum Price.

5.4.6.7 Losses, expenses or damages to the extent not compensated by insurance or otherwise, including settlement of Trade Contractor claims or suits, subject, however, to the Guaranteed Maximum Price if one is established. The foregoing is not intended to waive the Construction Manager's right to seek additional compensation from the owner for Trade Contractor claims or suits which arise as a result of the actions or failure to act of the Owner, its consultants, other than the Construction Manager's, agents, or employees.

5.4.6.8 The cost of corrective or warranty work provided such work results from causes other than the negligence of the Construction Manager.

5.4.6.9 Cost of removal of all debris.

5.4.6.10 Cost incurred due to an emergency affecting the safety of persons and property.

5.4.6.11 Reasonably incurred legal costs of the Construction Manager in the performance of the Work, unless those legal costs arise from dispute between the Owner and the Construction Manager or the Owner does not provide written permission to incur the costs, which permission may not be unreasonably withheld.

5.4.6.12 Cost of storage of Project records beyond Project completion.

5.4.6.13 Cost of Trade Contractor default protection that the Construction Manager may be required to procure by this Agreement or is deemed necessary by the Construction Manager (inclusive of the charge for Trade Contractor Default Insurance or premiums for performance and payment bonds.)

5.4.6.14 Cost of jobsite computer hardware, software, supplies and communications, cost of Corporate and regional data processing/MIS services to the extent used specifically for this Project.

ARTICLE 6
CHANGES IN THE PROJECT

6.1 The Owner, without invalidating this Agreement, may order Changes in the Project within the general scope of this Agreement consisting of additions, deletions or other revisions of the Guaranteed Maximum Price, the Construction Phase Services, the Construction Manager's Fee and the Substantial Completion Date being adjusted accordingly. All such Changes in the Project will be authorized by Change Order. The Construction Manager will provide an estimate of the cost of the Change and the impact the Change will have on the Project Time Schedule to the Owner.

6.1.1 A Change Order is a written order to the Construction Manager signed by the Owner, or his authorized agent issued after the execution of this Agreement, authorizing a Change in the Project, or the method or manner of performance, and/or an adjustment in the Guaranteed Maximum Price, the Construction Manager's Fee, or the Substantial Completion Date. Each adjustment in the Guaranteed Maximum Price resulting from a Change Order will clearly separate the amount attributable to the Cost of the Project and the Construction Manager's Fee.

6.1.2 The Cost of a Change in the Project will be calculated as the sum of the following: (A) The cost of the additive change to the worked performed by the Trade Contractors plus (B) an overhead factor of ten percent (10%) of the additive cost of the change. The addition of the overhead factor will not be included until the Final Guaranteed Maximum Price is exceeded by 2% and will only apply to amounts over the 2%.

6.1.2.1 The amount of increase in the Guaranteed Maximum Price resulting from a Change in the Project will be the sum of the Cost of the Change in the Project calculated pursuant to Subparagraph 6.1.2 and the Construction Manager's fee calculated pursuant to Subparagraph 5.4.4.

6.1.2.2 Change Orders will require backup in the following detail: All material, labor, equipment, overhead and profit will be broken out into separate line items to be clearly supportive of the proposed costs. Owner and Architect/Engineer reserve the right to request necessary backup to substantiate both minor changes in the work or Change Orders. Overhead and Profit will be as described in Section 6.12 for Change Orders. For costs to be funded by a Contingency or Allowance, no Overhead or Profit will be allowed for the Construction Manager. Subcontractors will be limited to 10% OH&P combined on all changes whether part of a Change Order or cost funded by a Contingency or Allowance.

6.1.3 The amount of decrease in the Guaranteed Maximum Price to be allowed by the Construction Manager to the Owner for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the increase in Fee will be figured on the basis of net increase, if any, subject to the limitations set forth in the Contract Documents.

6.1.4 If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order or as a result of several Change Orders that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or the Construction Manager, the applicable unit prices and Guaranteed Maximum Price will be equitably adjusted.

6.1.5 Should concealed conditions be encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Drawings, Specifications, or Owner- furnished information or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, be encountered, the Guaranteed Maximum Price and the Substantial Completion Date may be equitably adjusted by Change Order upon claim by either party made within a reasonable time after the first observance of the conditions.

6.2 Claims for Additional Cost or Time

6.2.1 If the Construction Manager wishes to make a claim for an increase in the Guaranteed Maximum Price, an increase in his fee in accordance with Subparagraph 5.4.4., or an extension in the Substantial Completion Date, he must give the owner written notice thereof within a reasonable time after the occurrence of the event giving rise to such claim. This notice must be given by the Construction Manager before proceeding to execute any Work, except in an emergency endangering life or property in which case the Construction Manager will act, at his discretion, to prevent threatened damage, injury or loss. Claims arising from delay must be made within the month following the delay. No such claim will be valid unless so made.

6.2.2 Claims for extension of time because of unusual inclement weather will be granted only because such inclement weather prevented the execution of major items of work on normal working days. Unusual inclement weather as used herein means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the season or seasons of the year. Time extensions may also be granted for any day following a period of precipitation during which muddy conditions exist and prevent the performance of major items of work conducted on normal working days. Time may be granted for weather days over and above the normal rains days as outlined below.

6.2.3 Time extensions may be granted for adverse weather days in any month when the cumulative number of rain days during that month exceeds the number expected as shown on the Weather Table, provided that the weather prevented the execution of major items of work on normal working days. A rain day is defined as a day when rainfall exceeds one-one hundredth (.01) inch of rain and one (1.0) inch of snow pellets during a 24-hour period. The number of rain days expected for each month during the term of the Contract was provided as an attachment to RFP F2024065. The provided Weather Table is from the National Oceanic and Atmospheric Administration (NOAA) based on recorded information reported from Dallas/Fort Worth International Airport, Texas, latitude 32° 53' 47" N, longitude 97° 02' 28" W, elevation (ground) 559 ft., for the period of 1981-2010.

6.2.4 No additional payment, Change Order or extension of time will be provided to the Construction Manager because of hindrances or delays from any cause which is the fault of Construction Manager or Construction Manager's Trade Contractors or under Construction Manager's control whether such hindrances or delays be avoidable or unavoidable. Claims for extension of time and/or payment of General Conditions, Construction Phase Services and Construction Management Fee will be considered because of hindrances or delays which are not the fault of the Construction Manager.

6.2.5 Claims for extension of time due to inclement weather will require the Construction Manager to submit a Zero Cost Change Order listing the days causing the delays, a letter with the request for time extension, an inclement weather log showing the above-mentioned inclement weather days for the appropriate month have been exceeded, and days beyond the above-mentioned weather days separated by month.

6.2.6 The Inclement Weather Log will also show the critical path items from the Construction Schedule that were affected. Additionally, the NOAA weather data for the 10 Year Average will be submitted with the claim. The Inclement Weather Log will be kept up to date by the Construction Manager throughout the life of the project and will be included in both the OAC Meeting Agenda and the Monthly Update as referenced above in Section 2.2.1.8.

6.2.7 Each claim for inclement weather will, if necessary, be submitted no later the tenth day of each month for the month prior.

6.2.8 Claims for extension of time may be considered because of hindrances or delays not the fault of Construction Manager or Owner, but only to the extent that Substantial Completion of the Project exceeds the original Substantial Completion date of the Project because of the delay. Requests for time extension will be submitted on a monthly basis and will specify the time delay, the cause of the delay and the fault of the delay.

6.3 Minor Changes in the Project

6.3.1 The Architect/Engineer will have authority to order minor Changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Substantial Completion Date and not inconsistent with the Drawings and Specifications. Such Changes may be affected by written order and will be binding on the Owner, the Trade Contractor and the Construction Manager, provided notice and reasonable opportunity to object have been given.

6.4 Emergencies

6.4.1 In any emergency affecting the safety of persons or property, the Construction Manager will act, at his discretion, to prevent threatened damage, injury or loss. Any increase in the Guaranteed Maximum Price or extension of time claimed by the Construction Manager on account of emergency work will be determined as provided in this Article.

6.5 Change Order Review Time

Construction Manager understands that proper review and authorization of Change Orders by Commissioners Court may require up to thirty (30) days. The Commissioners Court authorizes the Facilities Management Director to approve Change Orders without first obtaining Commissioners Court approval if:

a. The Change Order in total does not exceed $50,000 or

b. In the event the Change Order will exceed $50,000, the amount expendable before the Commissioners Court approval must not exceed $50,000; or

c. Allowances, if any, provided for in the Contract Documents will be authorized only by duly adopted Change Orders, approved in accordance with this Agreement.

6.6 Proof Required

In support of any request for an extension of the Contract Time, Construction Manager must demonstrate to the reasonable satisfaction of Owner that the critical path of the Project Schedule was delayed, and such change delayed the Date of Substantial Completion. Construction Manager will be entitled to an increase in the Contract Time for the number of days that the Date of Substantial Completion was delayed solely as a result of the compensable or excusable event.

Construction Manager will compare the critical path of the Project Schedule to the actual critical path of the Work, identifying the specific impact of the compensable or excusable event. Construction Manager will submit to the Owner a written time impact analysis illustrating the influence of each

compensable or excusable event on the Date of Substantial Completion. Each time impact analysis will include a fragmentary network (network analysis) demonstrating how the Construction Manager proposes to incorporate the time impact based on the date of the delay in time and the event time computation of all affected activities.

If a cost is associated with an Extension of Time, it must be broken out per requirements of a standard Change Order to the satisfaction of the Owner and Architect/Engineer and will comply with Section 6.1.1.

ARTICLE 7
DISCOUNTS

All discounts for prompt payment will accrue to the Owner to the extent the Cost of the Project is paid directly by the Owner or from a fund made available by the Owner to the Construction Manager for such payments. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, will be credited to the Cost of the Project.

ARTICLE 8
PAYMENTS TO THE CONSTRUCTION MANAGER

8.1 The Construction Manager will submit monthly to the Owner a statement, sworn to if required, showing all moneys paid out, costs accumulated or costs incurred on account of the Cost of the Project during the previous month, cost for work performed by Trade Contractors and the amount of the Construction Manager's Fee due as provided in Article 5. Payment by the Owner to the Construction Manager, for the services provided by the Construction Manager, will be paid within thirty days (30) after it is received and approved by both the Architect/Engineer and Tarrant County Facilities Management Construction Services. The Owner will withhold from each monthly payment an amount equal to five percent (5%) as Retainage. Owner may release partial retainage to Construction Manager on written approval of the Construction Manager's surety on the performance and payment bonds.

8.1.1 The Construction Manager will maintain detailed statements, including without limitation, payroll records, receipted invoices, check vouchers, and any other evidence demonstrating costs incurred by the Construction Manager on account of the Cost of the Project, which records will be available for the Owner's examination during regular business hours.

8.2 Final payment will be made by the Owner to the Construction Manager when (1) the Contract has been fully performed by the Construction Manager, including the correction of nonconforming work, except for the Construction Manager's responsibility to satisfy other requirements, if any, which Owner agrees necessarily survive final payment: (2) a final Application for Payment and a final accounting for the Cost of the Project have been submitted by the Construction Manager and reviewed and commented on by the Owner and (3) Architect has inspected the work and a final Certificate for Payment has then been issued by the Architect, such final payment will be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment. If Final Payment is withheld, the amount withheld will equal a sum 150% of the estimated cost of completing any unfinished items, provided that said unfinished items are each listed separately along with the estimated cost of completing each unfinished item. Thereafter, Owner will pay to the Construction Manager, monthly, the amount retained for incomplete items as each of said items is completed.

8.3 If the Owner should fail to pay the Construction Manager within a 30-day period after Tarrant County Commissioners Court approval of payment, then the Construction Manager may, upon

seven (7) additional days written notice to the Owner and the Architect/Engineer, stop the Project until payment of the amount owing has been received. The Contract performance time may be extended appropriately and the GMP may be increased upon reasonable agreement between the Construction Manager and the Owner by the amount of the Construction Manager's reasonable costs of shut-down, delay and start-up, all of which costs will be reimbursed the Construction Manager.

8.4 As a part of the monthly progress payment application the Construction Manager will provide complete and updated Construction Schedule, all Waivers that are Conditional for the current month, Unconditional for month prior, and all requirements conforming to the Supplemental Conditions of this Contract for ARPA projects including Certified Payroll per the Davis Bacon Act. The Construction Manager will list the critical path activities in tabular format (Microsoft Office Word or Excel document). This list will include the critical path activities (completed percentage of each and those not completed) for the month of the current progress payment application and the upcoming 3 months ahead (Month 1, Month 2 and Month 3, all listed as separate months). The document should be titled "Project Critical Path This Month and the 3 Month Look Ahead".

8.5 As a part of the monthly progress payment application the Construction Manager will provide documentation for the billing of Stored Materials:

a. Photographs of all material with a tag placed on materials reading "Property of Tarrant County" with the Project Name listed below.

b. Application for Payment will include a standard Bailment Agreement form signed and witnessed by the Construction Manager.

c. A Certificate of Insurance for the full value of all materials offsite from a bonded warehouse. Location of the warehouse will be noted on the Certificate of Insurance and the value of the materials will be noted.

ARTICLE 9
INSURANCE, INDEMNITY, WAIVER OF SUBROGATION, AND BONDS

9.1 Indemnity

9.2.1 TO THE EXTENT CLAIMS, DAMAGES, LOSSES OR EXPENSES ARE NOT COVERED BY INSURANCE PURCHASED BY THE CONSTRUCTION MANAGER UNDER 9.4, THE CONSTRUCTION MANAGER WILL INDEMNIFY AND HOLD HARMLESS THE OWNER 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, (except damage to the Work itself which is insured under the Property Insurance for the Project pursuant to 9.4.1,) BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OF THE CONSTRUCTION MANAGER, A TRADE CONTRACTOR, 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 WILL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD

OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS PARAGRAPH.

IN CLAIMS AGAINST ANY PERSON OR ENTITY INDEMNIFIED UNDER THIS PARAGRAPH BY AN EMPLOYEE OF THE CONSTRUCTION MANAGER, A TRADE CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER THIS PARAGRAPH WILL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONSTRUCTION MANAGER OR A TRADE CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

9.2 Tarrant County Insurance Requirements

9.2.1 The Construction Manager will take out, pay and maintain at all times during the prosecution of the work under contract, the following forms of insurance, in carriers acceptable and approved by Tarrant County.

a. Workers' Compensation/Employer's Liability

   1. Worker's Compensation – statutory
   2. Employer's Liability - $500,000

b. Commercial General Liability:

   1. Bodily Injury/Personal Injury/Property Damage
      $1,000,000 per occurrence/$2,000,000 aggregate

c. Auto Liability:

   1. Combined Single Limit (CSL) - $500,000 per occurrence

d. Builders Risk Coverage – project amount

e. Umbrella Liability Coverage - Minimum of $1,000,000

9.2.2 Builders Risk Insurance: Builders Risk Insurance shall be purchased by the Project Manager in an amount equal to one hundred percent (100%) of the construction value as amended. The Policy shall be written using an All-Risk form. Tarrant County shall be named as Loss Payee as their interest may appear. Coverage shall be maintained until final completion and acceptance of all work by Owner.

9.2.3 The Construction Manager will submit current Certificates of Insurance, including the effective dates of coverage, as an attachment to the GMP Exhibit "A". This insurance shall be effective for the contract duration and renewal certificates shall also be supplied upon expiration.

9.2.4 Tarrant County reserves the right to review the insurance requirements of this section during the effective period of the contract and to require adjustment of insurance coverage and their limits when deemed necessary and prudent by Tarrant County based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Construction Manager.

a. Required Provisions:

1. Proof of Carriage of Insurance – All Certificates of Insurance will be required in duplicate and filed with Tarrant County Purchasing Agent and the Budget and Risk Management Department at 100 East Weatherford Street, Suite 305, Fort Worth, Texas 76196 prior to work commencing.

2. All Certificates shall provide Tarrant County with an unconditional thirty (30) days written notice in case of cancellation or any major change.

3. As to all applicable coverage, policies shall name Tarrant County and its officers, employees, and elected representatives as additional insured.

4. All copies of the Certificates of Insurance shall reference the project name and solicitation number for which the insurance is being supplied.

5. The Construction Manager agrees to waive subrogation against Tarrant County, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent the loss, if any, is covered by the proceeds of insurance.

6. If applicable, the Construction Manager is responsible for making sure any subcontractor(s) performing work under this agreement has the required insurance coverage(s) and supplies Tarrant County with the proper documents verifying the coverage.

9.4 Bonds

The Construction Manager will provide performance and payment bonds as required in accordance with Chapter 2253, Texas Government Code. Samples of the bonds were provided with RFP F2024161 and will be included with the Guaranteed Maximum Price and as an attachment to Exhibit "A". The Construction Manager will deliver the bonds not later than the 10th day after the date the Construction Manager executes the contract.

ARTICLE 10
TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATIONS

10.1 Termination by the Construction Manager

10.1.1 If the Project, in whole or substantial part, is stopped for a period of thirty days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Construction Manager, or if the Project should be stopped for a period of thirty days by the Construction Manager for the Owner's failure to make payment thereon, then the Construction Manager may, upon seven days' written notice to the Owner and the Architect/Engineer, terminate this Agreement and recover from the Owner payment for all Work executed, the Construction Manager's Fee earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, cancellation charges on existing obligations of the Construction Manager.

10.2 Owner's Right to Perform Construction Manager's Obligations and Termination by the Owner for Cause.

10.2.1 If the Construction Manager fails to perform any of his obligations under this Agreement including any obligation he assumes to perform Work with his own forces, the Owner may, after seven days written notice during which period the Construction Manager fails to perform such obligation, make good such deficiencies. The Guaranteed Maximum Price, if any, will be reduced by the cost to the Owner of making good such deficiencies.

10.2.2 This Agreement may be terminated by Owner for cause should the Construction Manager fail to perform any provision of this Agreement, including without limitation, for any of the following reasons:

(a) Construction Manager abandons the Work;

(b) Construction Manager assigns or attempts to assign its rights or obligations under this Agreement or any part thereof to any third-party without the prior written consent of Owner;

(c) Construction Manager is adjudged bankrupt or insolvent, makes a general assignment for the benefit of creditors, has a trustee or receiver appointed for its property, or files a petition to take advantage of any debtor's acts;

(d) Construction Manager fails or refuses to perform any material obligation under the Agreement, or fails to remedy such nonperformance within seven (7) days after its occurrence;

(e) Construction Manager fails to comply with any applicable Laws and fails to remedy such nonperformance within seven (7) days after its occurrence; and

(f) Construction Manager fails to achieve the required dates of Substantial and/or Final Completion.

10.2.3 The Owner's right of termination as set forth herein will be in addition to, and not a limitation of, any and all other remedies available to Owner at law, in equity, or under the terms and provisions of this Agreement.

10.2.4 In the event of termination of the Agreement for cause, Owner may use Construction Managers material and leased equipment to complete the Work and may complete the Work in any reasonable manner. Construction Manager will receive no further payment, if any is due, until the Work is complete.

10.2.5 If, after a termination for cause, it is determined that the Construction Manager was not in default, the rights or obligations of the parties will be the same as if the termination had been issued for the convenience of the Owner. The Owner will then be liable to the Construction Manager for any payments required by the termination for convenience clause.

10.3 Termination by Owner Without Cause

10.3.1 Notwithstanding anything else contained in the Contract Documents, Owner will have the right at its sole and absolute discretion to terminate the Agreement without cause

and solely for the Owner's convenience by giving the Construction Manager written notice that the Agreement is terminated.

Construction Manager will, within thirty (30) days of receiving notice of termination under this Section, submit to Owner its statement of costs incurred by Construction Manager for performance of the Work prior to termination plus the costs incurred by Construction Manager in the performance of the Work terminated, less prior payments received. Owner will, within ninety (90) days after receipt of such statement, pay to Construction Manager all amounts it determines are properly included thereon. The phrase "costs incurred by Construction Manager in the performance of the Work terminated" as used herein means the following (and only the following) costs:

(a) Trade Contractor termination costs;

(b) Cancellation fees in regard to equipment and materials ordered;

(c) Cost of all materials and equipment ordered which cannot be cancelled, less actual proceeds received upon the disposition thereof;

(d) Restocking fees incurred in returning ordered materials;

(e) Construction Manager demobilization costs; and

(f) Costs for work in place not previously billed.

Upon payment by Owner of the sums owed under this Section, title to all materials, equipment and other property included or ordered for the terminated Work will pass to Owner. Payment by Owner to Construction Manager of the amounts specified in this Section will constitute a waiver by the Construction Manager of any other claims of any type arising out of the performance or termination of the Work, including any claims for consequential or indirect damages of any type, kind, or description.

ARTICLE 11
ASSIGNMENT AND GOVERNING LAW

11.1 Neither the Owner nor the Construction Manager may assign his interest in this Agreement without the written consent of the other except as to the assignment of proceeds.

11.2 Venue for any cause of action concerning this contract must be in the state district courts of Tarrant County, Texas. The law of the State of Texas governs this contract. Construction Manager will place Paragraph 11.2 in every trade contract Construction Manager executes in performance of this Project.

ARTICLE 12
MISCELLANEOUS PROVISIONS

12.1 It is expressly understood that the Owner will be directly retaining the services of an Architect/Engineer.

12.2 Notwithstanding anything contained herein, it is expressly understood that the Construction Manager's Project Control Systems, including without limitation - Estimating,

Scheduling, Purchasing, Cost Reporting, and Project Engineering Systems, and all modifications, additions, or alterations thereto, are and will remain the sole property of the Construction Manager. The Project information gathered, compiled and stored in the Construction Manager's Project Control System is the property of the Owner. The Construction Manager will provide the estimating, scheduling, purchasing, cost reporting and other project specific information in a format readily transferrable to the Owner such as in paper form or MicroSoft based applications.

12.4 Notwithstanding the event of any claim, dispute, or other matter in question arising out of or relating to this Agreement or the breach thereof, the Construction Manager will carry on the Work and the Owner will continue to make payments in accordance with this Agreement.

12.5 This contract is a product of negotiation between the parties. The parties disclaim the use of *contra proferentem* in its interpretation.

12.6 Sovereign Immunity. THIS AGREEMENT IS EXPRESSLY MADE SUBJECT TO OWNER'S SOVEREIGN IMMUNITY, TITLE 5 OF THE TEXAS CIVIL PRACTICES AND REMEDIES CODE, AND ALL APPLICABLE FEDERAL AND STATE LAWS. THE PARTIES EXPRESSLY AGREE THAT NO PROVISION OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER OF ANY IMMUNITIES FROM SUIT OR FROM LIABILITY THAT THE OWNER HAS BY OPERATION OF LAW. NOTHING IN THIS AGREEMENT IS INTENDED TO BENEFIT ANY THIRD PARTY BENEFICIARY.

12.7 Texas Government Code Chapter 551 ("Texas Open Meetings Act" or "TOMA"). Owner is also subject to Chapter 551 of the Texas Government Code ("Texas Open Meetings Act" or "TOMA"), as well as various purchasing laws and open government laws and conflicts and ethics laws, any of which may require some information to be disclosed to transact business or to comply with applicable laws. Accordingly, this Agreement shall not be read, construed, or applied in any manner to require Owner to violate any law or to preclude Owner from any disclosure, response, report, or other publication of any information required by law or by lawful authority. Notwithstanding any language herein, this Agreement and all attachments hereto is open to the public, and all Parties, by signing this Agreement, expressly agree and hereby give their written consent that this Agreement may be put on the agenda for public action of the Tarrant Owner Commissioners Court in the manner that all agreements and contracts are considered, including the provision of an explanation of the purpose of the agreement in the publicly posted Commissioners Court communication and a full copy of the Agreement may be posted online and is public. Public deliberation pursuant to TOMA is also expressly approved, so that this Agreement may be made in lawful compliance with applicable laws.

12.8 Texas Government Code Chapter 552 ("Texas Public Information Act" or "TPIA"). The Owner advises Contractor that the Owner is a governmental body under Chapter 552 of the Texas Government Code and that certain information that is collected, assembled, or maintained in connection with the transaction of official business by a governmental body is considered public information potentially subject to disclosure pursuant to a valid Texas Public Information Act ("TPIA") request. Contractor's trade secrets, certain financial information, and proprietary information may be subject to an exception to disclosure under Chapter 552 of the Texas Government Code, Subchapter C. If a TPIA request is made on the Owner to disclose Contractor information that may be subject to an exception from disclosure, Owner will (i) promptly notify Contractor of such request for disclosure, and (ii) decline to release such information and file a written request with the Texas Attorney General's office seeking a determination as to whether such information may be withheld.

12.9 Chapters 2271, 2252, and 2274 Texas Government Code Verification.

12.9.1 Boycott of Israel Prohibited. In compliance with Section 2271.001 et seq. of the Texas Government Code, Contractor verifies that neither it nor any of its affiliates currently boycott Israel and neither it nor any of its affiliates will boycott Israel during the term of this Agreement. “Boycott Israel” is defined in Section 808.001(1) of the Texas Government Code.

12.9.2 Scrutinized Business Operations Prohibited. In compliance with Section 2252.151 et seq. of the Texas Government Code, Contractor warrants and represents that: (1) neither Contractor nor any of its affiliates engages in scrutinized business operations in Sudan; (2) neither Contractor nor any of its affiliates engages in scrutinized business operations in Iran; and (3) neither Contractor nor any of its affiliates engages in scrutinized business operations with designated foreign terrorist organizations. “Scrutinized business operations in Sudan” is defined in Section 2270.0052 of the Texas Government Code. “Scrutinized business operations in Iran” is defined in Section 2270.0102 of the Texas Government Code. “Scrutinized business operations with designated foreign terrorist organizations” is defined in Section 2270.0152 of the Texas Government Code. Contractor further represents and warrants that neither Contractor nor any of its affiliates appears on any of the Texas Comptroller’s Scrutinized Companies Lists.

12.9.3 Boycott of Certain Energy Companies Prohibited. In compliance with Section 2274.002 of the Texas Government Code (added by 87th Legislature, S.B. 13), Contractor verifies that neither it nor any of its affiliates currently boycott energy companies and neither it nor any of its affiliates will boycott energy companies during the term of this Agreement. “Boycott energy company” is defined in Section 809.001(1) (added by 87th Legislature, S.B. 13) and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A).

12.9.4 Discrimination against Firearm Entities or Firearm Trade Associations Prohibited. In compliance with Section 2274.002 of the Texas Government Code (added by 87th Legislature, S.B. 19), Contractor verifies that neither it nor any of its affiliates have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and neither it nor any of its affiliates will discriminate during the term of the Agreement against a firearm entity or firearm trade association. “Discriminate against a firearm entity or firearm trade association” is defined in Section 2274.001(3) (added by 87th Legislature, S.B. 19) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal

to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

12.10 Compliance with Law. In providing the services required by this Agreement, Contractor must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. Contractor shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.

12.11 Prohibition of Political Activity. None of the funds provided under this Agreement shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent the Parties' compliance with the Texas Public Information Act. No funds provided under this Agreement may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government, the State of Texas, or the government of the United States. None of the funds provided under this Agreement shall be paid to any official or employee who violates any of the provisions of this Section.

12.12 Federal Debarred Vendor. No products or services utilizing Federal funds may be procured from contractors that are listed (debarred or otherwise suspended) on System for Award Management (SAM) formerly known as the Federal Excluded Parties List. Government requirements for non-procurement suspension and debarment are contained in the OBM guidance 2 CFR, part 180 that implements Executive Orders 12549 and 12689 Debarment and Suspension. Owner reserves the right to terminate this Agreement if Contractor is found to be suspended, ineligible or debarred as outlined herein.

12.13 Form 1295 Certificate of Interested Parties. Contractor acknowledges and agrees that it has fully, accurately, and completely disclosed all interested parties in the Form 1295 electronically filed with the Texas Ethics Commission, at https://www.ethics.state.tx.us/filinginfo/1295/, as required by law, and that the attached signed copy attached as Exhibit D is a full and true copy of said filed form.

12.14 Equal Opportunity. Contractor is an Equal Opportunity and Affirmative Action employer.

12.15 Fair Labor Standards Act. Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend and hold harmless the Owner and its Commissioners Court, Owner Judge, elected officials, its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by Contractor's employees for which the Owner may be found jointly or solely liable.

12.16 Salaries and Expenses of Vendor Employees. Contractor shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the Agreement. Contractor further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this Agreement.

12.17 Title VI Assurances and Compliance. This Agreement is subject to applicable federal and state laws and executive orders, including the Fair Labor Standards Act of 1938, relating to equal opportunity and nondiscrimination in employment. Neither Contractor nor its agents or subcontractors shall discriminate in their employment practices against any person by reason of disability, age, race, creed, national origin, color, religion, sex, political affiliation, or veteran status. In addition, Contractor assures that no person will, on the grounds of disability, age, race, creed, national origin, color, religion, sex, political affiliation, or veteran status, be excluded from, be denied the benefit of or be subjected to discrimination under any program or activity funded in whole or in part under this Agreement. Contractor agrees to comply, and to cause its agents and subcontractors to comply, with the provisions of said laws and orders to the extent any such laws and orders are applicable in the performance of this Agreement. Contractor agrees to comply with its Title VI assurances contained in Exhibit D which is attached hereto and incorporated herein by reference.

12.18 In order to comply with the requirements of written notice in this contract the parties must send written notice to the applicable address by U. S. certified mail, return receipt requested:

COUNTY:
Michael Amador
Tarrant County Facilities Management
200 Taylor Street, Suite 344
Fort Worth, TX 76196

PROVIDER:
Taylor Hale
HM & MF Ltd. d/b/a Muckleroy & Falls
3200 Riverfront Drive
Fort Worth, TX 76107

12.19 Execution of Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted or executed electronically shall be deemed to be their original signatures for any purpose whatsoever.

ARTICLE 13
LIST OF EXHIBITS

Exhibit "A" — Guaranteed Maximum Price

Exhibit "B" — Preliminary Construction Schedule

Exhibit "C" — Title VI Assurances and Compliance Policy

Exhibit "D" — Form 1295

Exhibit “E” – Insurance Certificate

Exhibit “F” - Compliance with State Law & Federal Law, Regulations, and Executive Orders Form

Exhibit “G” – Byrd Anti-Lobbying Certification

AIA General Conditions A201-2007

Supplementary Conditions

APPROVED on this day the_____day of_____, 2025, by Commissioners Court Order No. _____.

TARRANT COUNTY
STATE OF TEXAS

CONSTRUCTION MANAGER

By: Separate Electronic Signature Page
Tim O'Hare
County Judge

Authorized Signature

APPROVED AS TO FORM:

James Marvin Nichols
Criminal District Attorney's Office*

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead, those parties should seek contract review from independent counsel.

CERTIFICATION OF FUNDS IN THE AMOUNT OF $_____

_____ Date: _____
Auditor's Office

Exhibit "A" – Guaranteed Maximum Price
Agreement Between Owner and Construction Manager
Plaza Parking Garage Expansion

The Total Contract Price of $12,433,999.00 as established in Article 5 includes the following:

SPECIFIC DOCUMENTS IN EXHIBIT "A":

5.1.1		DRAWINGS, SPECIFICATIONS, ADDENDA WITH ISSUANCE DATES
5.1.2	A	LIST OF CURRENT DRAWINGS
	B	GENERAL CONDITIONS
	C	TRADE COSTS BY SUBCONTRACTOR
	D	CONSTRUCTION SERVICES COST
	E	CONSTRUCTION CONTINGENCY COST
	F	BOND COST
	G	CERTIFICATES OF INSURANCE
5.1.3		CLARIFICATIONS & ASSUMPTIONS
5.1.4		LIST OF ALLOWANCES

MUCKLEROY & FALLS

24057 - Tarrant County Plaza Garage (24057)

Drawings Summary Log

Number	Revision	Status	Title	Rev. Date	Drawing Set	Discipline
22156.00	00	Current	Plaza Garage Drawings - Linked Set_Page1	3/28/2024	Permit Set.	
A-101	00	Current	LEVEL 01 FLOOR PLAN	3/28/2024	Permit Set.	Architectural
A-102	00	Current	LEVEL 02 FLOOR PLAN	3/28/2024	Permit Set.	Architectural
A-103	00	Current	LEVEL 03 FLOOR PLAN	3/28/2024	Permit Set.	Architectural
A-104	00	Current	LEVEL 04 FLOOR PLAN	3/28/2024	Permit Set.	Architectural
A-105	00	Current	LEVEL 05 FLOOR PLAN	3/28/2024	Permit Set.	Architectural
A-106	00	Current	LEVEL 06 FLOOR PLAN	3/28/2024	Permit Set.	Architectural
A-107	00	Current	LEVEL 07 FLOOR PLAN	3/28/2024	Permit Set.	Architectural
A-108	00	Current	LEVEL 08 FLOOR PLAN	3/28/2024	Permit Set.	Architectural
A-121	00	Current	LEVEL 01 REFLECTED CEILING PLAN	3/28/2024	Permit Set.	Architectural
A-122	00	Current	LEVEL 02 REFLECTED CEILING PLAN	3/28/2024	Permit Set.	Architectural
A-123	00	Current	LEVEL 03 REFLECTED CEILING PLAN	3/28/2024	Permit Set.	Architectural
A-124	00	Current	LEVEL 04 REFLECTED CEILING PLAN	3/28/2024	Permit Set.	Architectural
A-125	00	Current	LEVEL 05 REFLECTED CEILING PLAN	3/28/2024	Permit Set.	Architectural
A-126	00	Current	LEVEL 06 REFLECTED CEILING PLAN	3/28/2024	Permit Set.	Architectural
A-127	00	Current	LEVEL 07 REFLECTED CEILING PLAN	3/28/2024	Permit Set.	Architectural
A-201	00	Current	EXTERIOR ELEVATIONS	3/28/2024	Permit Set.	Architectural
A-202	00	Current	PERFORATED METAL PANEL ENLARGED ELEVATIONS	3/28/2024	Permit Set.	Architectural

24057 - Tarrant County Plaza Garage (24057)

Drawings Summary Log

Number	Revision	Status	Title	Rev. Date	Drawing Set	Discipline
A-301	00	Current	BUILDING SECTIONS	3/28/2024	Permit Set.	Architectural
A-311	00	Current	WALL SECTIONS	3/28/2024	Permit Set.	Architectural
A-312	00	Current	WALL SECTIONS	3/28/2024	Permit Set.	Architectural
A-401	00	Current	TYPICAL INTERIOR MOUNTING DIAGRAMS	3/28/2024	Permit Set.	Architectural
A-411	00	Current	ENLARGED STAIR PLANS AND SECTIONS DETAILS	3/28/2024	Permit Set.	Architectural
A-501	00	Current	SECTION DETAILS	3/28/2024	Permit Set.	Architectural
A-502	00	Current	SECTION DETAILS	3/28/2024	Permit Set.	Architectural
A-503	00	Current	SECTION DETAILS	3/28/2024	Permit Set.	Architectural
A-511	00	Current	PLAN DETAILS	3/28/2024	Permit Set.	Architectural
A-512	00	Current	PLAN DETAILS	3/28/2024	Permit Set.	Architectural
A-513	00	Current	DETAILS	3/28/2024	Permit Set.	Architectural
A-621	00	Current	STANDARD PARTITION TYPES	3/28/2024	Permit Set.	Architectural
A-622	00	Current	PARTITION FRAMING DETAILS	3/28/2024	Permit Set.	Architectural
A-630	00	Current	DOOR GLAZING AND LOUVER SCHEDULES	3/28/2024	Permit Set.	Architectural
AD101	00	Current	DEMOLITION FLOOR PLANS	3/28/2024	Permit Set.	Architectural
AS100	00	Current	SITE PLAN	3/28/2024	Permit Set.	Architectural
C1.0	00	Current	DEMOLITION PLAN	3/28/2024	Permit Set.	Civil
C2.0	00	Current	OVERALL SITE PLAN	3/28/2024	Permit Set.	Civil
C2.1	00	Current	SITE PLAN	3/28/2024	Permit Set.	Civil
C3.0	00	Current	GRADING PLAN	3/28/2024	Permit Set.	Civil
C4.0	00	Current	UTILITY PLAN	3/28/2024	Permit Set.	Civil
C5.0	00	Current	TRAFFIC CONTROL PLAN	3/28/2024	Permit Set.	Civil
C6.0	00	Current	PAVING DETAILS (1 OF 3)	3/28/2024	Permit Set.	Civil

24057 - Tarrant County Plaza Garage (24057)

Drawings Summary Log

Number	Revision	Status	Title	Rev. Date	Drawing Set	Discipline
C6.1	00	Current	PAVING DETAILS (2 OF 3)	3/28/2024	Permit Set.	Civil
C6.2	00	Current	PAVING DETAILS (3 OF 3)	3/28/2024	Permit Set.	Civil
C6.3	00	Current	UTILITY DETAILS	3/28/2024	Permit Set.	Civil
C6.4	00	Current	TRAFFIC CONTROL DETAILS	3/28/2024	Permit Set.	Civil
E-001	00	Current	SYMBOL LIST	3/28/2024	Permit Set.	Electrical
E-101	00	Current	LEVEL 01 FLOOR PLAN-POWER	3/28/2024	Permit Set.	Electrical
E-102	00	Current	LEVEL 02 FLOOR PLAN-POWER	3/28/2024	Permit Set.	Electrical
E-103	00	Current	LEVEL 03 FLOOR PLAN-POWER	3/28/2024	Permit Set.	Electrical
E-104	00	Current	LEVEL 04 FLOOR PLAN-POWER	3/28/2024	Permit Set.	Electrical
E-105	00	Current	LEVEL 05 FLOOR PLAN-POWER	3/28/2024	Permit Set.	Electrical
E-106	00	Current	LEVEL 06 FLOOR PLAN-POWER	3/28/2024	Permit Set.	Electrical
E-107	00	Current	LEVEL 07 FLOOR PLAN-POWER	3/28/2024	Permit Set.	Electrical
E-108	00	Current	ROOF FLOOR PLAN-POWER	3/28/2024	Permit Set.	Electrical
E-201	00	Current	LEVEL 01 REFLECTED CEILING PLAN-LIGHTING	3/28/2024	Permit Set.	Electrical
E-202	00	Current	LEVEL 02 REFLECTED CEILING PLAN-LIGHTING	3/28/2024	Permit Set.	Electrical
E-203	00	Current	LEVEL 03 REFLECTED CEILING PLAN-LIGHTING	3/28/2024	Permit Set.	Electrical
E-204	00	Current	LEVEL 04 REFLECTED CEILING PLAN-LIGHTING	3/28/2024	Permit Set.	Electrical
E-205	00	Current	LEVEL 05 REFLECTED CEILING PLAN-LIGHTING	3/28/2024	Permit Set.	Electrical
E-206	00	Current	LEVEL 06 REFLECTED CEILING PLAN-LIGHTING	3/28/2024	Permit Set.	Electrical
E-207	00	Current	LEVEL 07 REFLECTED CEILING PLAN-LIGHTING	3/28/2024	Permit Set.	Electrical
E-208	00	Current	ROOF REFLECTED CEILING PLAN-LIGHTING	3/28/2024	Permit Set.	Electrical
ES-101	00	Current	PUBLIC STREET LIGHTING PLAN	3/28/2024	Permit Set.	Electrical
ES-102	00	Current	PUBLIC STREET LIGHTING DETAILS	3/28/2024	Permit Set.	Electrical

24057 - Tarrant County Plaza Garage (24057)

Drawings Summary Log

Number	Revision	Status	Title	Rev. Date	Drawing Set	Discipline
ES-103	00	Current	PUBLIC STREET LIGHTING DETAILS	3/28/2024	Permit Set.	Electrical
FP-101	00	Current	LEVEL 01 FIRE PROTECTION PLAN	3/28/2024	Permit Set.	Fire Protection
FP-102	00	Current	LEVEL 02 FIRE PROTECTION PLAN	3/28/2024	Permit Set.	Fire Protection
FP-103	00	Current	LEVEL 03 FIRE PROTECTION PLAN	3/28/2024	Permit Set.	Fire Protection
FP-104	00	Current	LEVEL 04 FIRE PROTECTION PLAN	3/28/2024	Permit Set.	Fire Protection
FP-105	00	Current	LEVEL 05 FIRE PROTECTION PLAN	3/28/2024	Permit Set.	Fire Protection
FP-106	00	Current	LEVEL 06 FIRE PROTECTION PLAN	3/28/2024	Permit Set.	Fire Protection
FP-107	00	Current	LEVEL 07 FIRE PROTECTION PLAN	3/28/2024	Permit Set.	Fire Protection
G-001	00	Current	SHEET INDEX, GENERAL NOTES, ABBREVIATIONS AND SYMBOLS	3/28/2024	Permit Set.	
G-002	00	Current	LIFE SAFETY INFORMATION	3/28/2024	Permit Set.	
G-003	00	Current	LIFE SAFETY INFORMATION	3/28/2024	Permit Set.	
G-004	00	Current	LIFE SAFETY INFORMATION	3/28/2024	Permit Set.	
G-011	00	Current	ADA SHEET 1	3/28/2024	Permit Set.	
G-012	00	Current	ADA SHEET 2	3/28/2024	Permit Set.	
G-013	00	Current	ADA SHEET 3	3/28/2024	Permit Set.	
G-014	00	Current	ADA SHEET 4	3/28/2024	Permit Set.	
G-015	00	Current	ADA SHEET 5	3/28/2024	Permit Set.	
G-016	00	Current	ADA SHEET 6	3/28/2024	Permit Set.	
IR1.0	00	Current	OVERALL IRRIGATION PLAN	3/28/2024	Permit Set.	
IR1.1	00	Current	IRRIGATION PLAN	3/28/2024	Permit Set.	
IR1.2	00	Current	IRRIGATION DETAILS	3/28/2024	Permit Set.	
L1.0	00	Current	LANDSCAPE PLAN	3/28/2024	Permit Set.	

24057 - Tarrant County Plaza Garage (24057)

Drawings Summary Log

Number	Revision	Status	Title	Rev. Date	Drawing Set	Discipline
L2.0	00	Current	PLANT LIST; DETAILS; SPECIFICATIONS	3/28/2024	Permit Set.	
M-101	00	Current	LEVEL 01 MECHANICAL FLOOR PLAN	3/28/2024	Permit Set.	Mechanical
P-101	00	Current	LEVEL 01 PLUMBING PLAN	3/28/2024	Permit Set.	Plumbing
P-102	00	Current	LEVEL 02 PLUMBING PLAN	3/28/2024	Permit Set.	Plumbing
P-103	00	Current	LEVEL 03 PLUMBING PLAN	3/28/2024	Permit Set.	Plumbing
P-104	00	Current	LEVEL 04 PLUMBING PLAN	3/28/2024	Permit Set.	Plumbing
P-105	00	Current	LEVEL 05 PLUMBING PLAN	3/28/2024	Permit Set.	Plumbing
P-106	00	Current	LEVEL 06 PLUMBING PLAN	3/28/2024	Permit Set.	Plumbing
P-107	00	Current	LEVEL 07 PLUMBING PLAN	3/28/2024	Permit Set.	Plumbing
P-108	00	Current	LEVEL 08 PLUMBING PLAN	3/28/2024	Permit Set.	Plumbing
S-101	00	Current	GENERAL NOTES & ABBREVIATIONS	3/28/2024	Permit Set.	Structural
S-102	00	Current	GENERAL NOTES	3/28/2024	Permit Set.	Structural
S-201	00	Current	LEVEL 01 FOUNDATION PLAN	3/28/2024	Permit Set.	Structural
S-202	00	Current	LEVEL 02 PLAN	3/28/2024	Permit Set.	Structural
S-203	00	Current	LEVEL 03 PLAN	3/28/2024	Permit Set.	Structural
S-204	00	Current	LEVEL 04 PLAN	3/28/2024	Permit Set.	Structural
S-205	00	Current	LEVEL 05 PLAN	3/28/2024	Permit Set.	Structural
S-206	00	Current	LEVEL 06 PLAN	3/28/2024	Permit Set.	Structural
S-207	00	Current	LEVEL 07 PLAN	3/28/2024	Permit Set.	Structural
S-208	00	Current	LEVEL 08 PLAN	3/28/2024	Permit Set.	Structural
S-301	00	Current	TYPICAL DETAILS	3/28/2024	Permit Set.	Structural
S-302	00	Current	TYPICAL DETAILS	3/28/2024	Permit Set.	Structural
S-401	00	Current	FOUNDATION DETAILS	3/28/2024	Permit Set.	Structural

Drawings Summary Log

Number	Revision	Status	Title	Rev. Date	Drawing Set	Discipline
S-402	00	Current	FOUNDATION DETAILS	3/28/2024	Permit Set.	Structural
S-403	00	Current	DETAILS	3/28/2024	Permit Set.	Structural
S-404	00	Current	DETAILS	3/28/2024	Permit Set.	Structural
S-501	00	Current	SCHEDULES	3/28/2024	Permit Set.	Structural
TS-1	00	Current	CHERRY ST AT WEATHERFORD ST QUANTITY SUMMARY	3/28/2024	Permit Set.	
TS-2	00	Current	TRAFFIC SIGNAL GENERAL NOTES (1 OF 2)	3/28/2024	Permit Set.	
TS-3	00	Current	CHERRY ST AT WEATHERFORD ST TRAFFIC SIGNAL GENERAL NOTES (2 OF 2)	3/28/2024	Permit Set.	
TS-4	00	Current	CHERRY ST AT WEATHERFORD ST EXISTING SIGNAL LAYOUT	3/28/2024	Permit Set.	
TS-5	00	Current	CHERRY ST AT WEATHERFORD ST TEMPORARY SIGNAL LAYOUT	3/28/2024	Permit Set.	
TS-6	00	Current	CHERRY ST AT WEATHERFORD ST TEMPORARY SIGNALTABLES (1 OF 3)	3/28/2024	Permit Set.	
TS-7	00	Current	CHERRY ST AT WEATHERFORD ST TEMPORARY SIGNALTABLES (2 OF 3)	3/28/2024	Permit Set.	
TS-8	00	Current	CHERRY ST AT WEATHERFORD ST TEMPORARY SIGNALTABLES (3 OF 3)	3/28/2024	Permit Set.	
TS-9	00	Current	CHERRY ST AT WEATHERFORD ST TEMPORARY SOUTHEAST CORNER DETAIL	3/28/2024	Permit Set.	
TS-10	00	Current	CHERRY ST AT WEATHERFORD ST PERMANENT SIGNAL LAYOUT	3/28/2024	Permit Set.	
TS-11	00	Current	CHERRY ST AT WEATHERFORD ST PERMANENT SIGNAL TABLES (1 OF 3)	3/28/2024	Permit Set.	
TS-12	00	Current	CHERRY ST AT WEATHERFORD ST PERMANENT SIGNAL TABLES (2 OF 3)	3/28/2024	Permit Set.	
TS-13	00	Current	CHERRY ST AT WEATHERFORD ST PERMANENT SIGNAL TABLES (3 OF 3)	3/28/2024	Permit Set.	
TS-14	00	Current	CHERRY ST AT WEATHERFORD ST PERMANENT SOUTHEAST CORNER DETAIL	3/28/2024	Permit Set.	

24057 - Tarrant County Plaza Garage (24057)

Drawings Summary Log

Number	Revision	Status	Title	Rev. Date	Drawing Set	Discipline
TS-15	00	Current	CHERRY ST AT WEATHERFORD ST CITY OF FORT WORTH STANDARD DETAILS (1 OF 8)	3/28/2024	Permit Set.	
TS-16	00	Current	CHERRY ST AT WEATHERFORD ST CITY OF FORT WORTH STANDARD DETAILS (2 OF 8)	3/28/2024	Permit Set.	
TS-17	00	Current	CHERRY ST AT WEATHERFORD ST CITY OF FORT WORTH STANDARD DETAILS (3 OF 8)	3/28/2024	Permit Set.	
TS-18	00	Current	CHERRY ST AT WEATHERFORD ST CITY OF FORT WORTH STANDARD DETAILS (4 OF 8)	3/28/2024	Permit Set.	
TS-19	00	Current	CHERRY ST AT WEATHERFORD ST CITY OF FORT WORTH STANDARD DETAILS (5 OF 8)	3/28/2024	Permit Set.	
TS-20	00	Current	CHERRY ST AT WEATHERFORD ST CITY OF FORT WORTH STANDARD DETAILS (6 OF 8)	3/28/2024	Permit Set.	
TS-21	00	Current	CHERRY ST AT WEATHERFORD ST CITY OF FORT WORTH STANDARD DETAILS (7 OF 8)	3/28/2024	Permit Set.	
TS-22	00	Current	CHERRY ST AT WEATHERFORD ST CITY OF FORT WORTH STANDARD DETAILS (8 OF 8)	3/28/2024	Permit Set.	

PROJECT SPECIFICATIONS DATE:

MUCKLEROY & FALLS

PROJECT: PLAZA GARAGE BUDGET — **EXHIBIT A**

BID DATE: Thursday, August 15, 2024

EST NUMBER: 24057 — **CURRENT TOTAL: $12,433,999**

SQFT: 109,000 — **COST/SQFT: $114.07**

DURATION: 12 — **COST/SPACE: $41,036**

BASE BID					MINORITY SUB	ALTERNATE 1
RESPONSIBLE	DESCRIPTION	BID	$/SF	SUBCONTRACTOR		ENTIRE PROJECT AT NIGHT
	01A LUMP SUM GC'S	$587,556	$5.39	M&F	NOT MINORITY N	$51,720
	01B LUMP SUM GR'S	$1,735,221	$15.92	M&F	NOT MINORITY N	N/A
	02A DEMOLITION	$44,635	$0.41	TACTICAL	NOT MINORITY N	$7,572
	02C RETENTION SYSTEM	$355,000	$3.26	ORDUNO	$355,000 Y	$24,000
	03A CONCRETE	$3,783,466	$34.71	POTTER	NOT MINORITY N	$25,000
	03B PRECAST	$1,047,942	$9.61	GATE	NOT MINORITY N	$17,200
	04A MASONRY	$98,240	$0.90	BASECOM	$98,240 Y	$3,000
	05A STEEL & MISC METALS	$293,508	$2.69	AARON	$293,508 Y	$72,000
	07A WATERPROOFING & SEALANTS	$50,450	$0.46	SCS	NOT MINORITY N	$7,500
	08A DOORS, FRAMES, & HARDWARE	$37,860	$0.35	DALLAS DOOR	NOT MINORITY N	$305
	08B OVERHEAD DOORS	$25,487	$0.23	OHD FORT WORTH	NOT MINORITY N	$608
	08C GLASS & GLAZING	$39,800	$0.37	TEXSTAR	$39,800 Y	$1,500
	09A PLASTER	$79,880	$0.73	TRINITY	$79,880 Y	$2,300
	09B PAINTING	$22,985	$0.21	STONEHILL	$22,985 Y	$760
	107000 SIGNAGE ALLOWANCE	$15,000	$0.14	ALLOWANCE	NOT MINORITY	
	21A FIRE PROTECTION	$966,715	$8.87	T3 FIRE	NOT MINORITY N	$137,640
	22A PLUMBING	$220,450	$2.02	SALAS	$220,450 Y	$22,275
	23A MECHANICAL	$35,500	$0.33	ICEBERG	$35,500 Y	$7,500
	26A ELECTRICAL	$559,663	$5.13	BASECOM	$559,663 Y	$44,000
	26B STREET TRAFFIC LIGHTS	$678,643	$6.23	BEAN ELECTRIC	NOT MINORITY N	$143,000
	28A FIRE ALARM	$19,300	$0.18	EVERON	NOT MINORITY N	$1,800
	31A SITEWORK	$556,298	$5.10	MELVILLE	NOT MINORITY N	$69,415
	32A STRIPING	$8,027	$0.07	SEMPER FI	NOT MINORITY N	$7,600
	32B LANDSCAPING & IRRIGATION	$20,494	$0.19	REGAL OAKS	NOT MINORITY N	$935
	33A STIE UTILITIES	$62,249	$0.57	CALVO	$62,249 Y	$2,500
	SUBTOTAL	**$11,344,369**	$104.08		$1,767,275	$685,730
					TOTAL MINORITY	
					14.21%	

GROSS COST		**$11,344,369**	**$685,730**
BUILDERS RISK INSURANCE		$20,399	$1,827
GENERAL LIABILITY INSURANCE		$55,233	$4,636
BUILDING PERMIT/TDLR REVIEW		BY OWNER	
DESIGN SERVICES		BY OWNER	
ERRORS & OMISSIONS INSURANCE		BY OWNER	
TESTING		BY OWNER	
SUBTOTAL		**$11,420,002**	**$692,192**
CONTRACTOR'S CONTINGENCY	**3.00%**	$342,600	$41,532
WARRANTY PROGRAM			
SUBCONTRACTOR DEFAULT INSURANCE	**1.50%**	$171,300	$17,305
CONSTRUCTION SERVICES FEE	**3.50%**	$417,687	$55,375
SUBTOTAL		**$12,351,588**	**$806,404**
REMODEL TAX - 8.25% **(YES/NO)**	**NO**		
PAYMENT & PERFORMANCE BOND **(YES/NO)**	**YES**	**$129,985**	**$12,645**
SAVINGS FOR LUMP SUM GC'S		**($25,640)**	
SAVINGS FOR LUMP SUM GR'S		**($21,934)**	
TOTAL		**$12,433,999**	**$819,049**
	OWNER PUBLISHED BUDGET	**$12,684,929**	
	OVER / UNDER BUDGET	**($250,930)**	

Premium Estimate

Principal:	HM & MF, Ltd dba Muckleroy & Falls	**Phone #:**	(817) 529-7204
Address:	3200 Riverfront Dr., Suite 200 Fort Worth, TX 76107 USA	**Fax #:**	
Surety:	Swiss Re Corporate Solutions America Insurance Corporation		

Please Select Premium and Commission Rate Tables

Bond Amount:	$12,433,999.00	**Maint. Amount:**	$0.00	**Maint. Term (Years):**	0

Rate Cat.	Contract Value	Maint. Value	Rate	Maint. Rate	Premium	Maint. Prem.	Commission Rate	Commission	Maint. Comm.
For First	$100,000	$0	$25.00	$2.50	$2,500	$0	0.0000%	$0.00	$0.00
For Next	$400,000	$0	$15.00	$2.25	$6,000	$0	0.0000%	$0.00	$0.00
For Next	$2,000,000	$0	$10.00	$2.00	$20,000	$0	0.0000%	$0.00	$0.00
For Next	$2,500,000	$0	$7.50	$1.75	$18,750	$0	0.0000%	$0.00	$0.00
For Next	$2,500,000	$0	$7.00	$1.50	$17,500	$0	0.0000%	$0.00	$0.00
For Next	$2,500,000	$0	$6.50	$1.40	$16,250	$0	0.0000%	$0.00	$0.00
For Over	$2,433,999	$0	$6.50	$1.40	$15,821	$0	0.0000%	$0.00	$0.00

Bond Premium:	$96,821.00	**Bond Commission:**	$0.00
Maint. Premium:	$0.00	**Maint. Commission:**	$0.00
Surcharge Premium:	$0.00	**Surcharge Commission:**	$0.00
Surety Percent:	100.00%		

Total Premium:	$96,821.00	**Total Commission:**	$0.00

This Quote Expires On: 2/7/25

MUCKLEROY & FALLS

Tarrant County Plaza Building Garage
GMP Clarifications
January 10, 2025

EXHIBIT A

This Agreement is based on the Construction Documents Issued listed below. In addition to the items below, our budget includes our interpretation of the documents. The following Clarifications which are offered in support of or indicate exceptions to the following documents. In the event of any contradictions between the contract documents and clarifications contained herein, the clarifications shall govern.

Division 1: General Notes

1. Budget is based on the following documents:
    a. Civil drawings dated – 03/29/2024 by Baird, Hampton, Brown
    b. Landscaping dated – 03/29/2024 by Baird, Hampton, Brown
    c. Architectural drawings dated – 03/29/2024 by Bennett Partners
    d. Structural drawings dated – 03/29/2024 by Frank W. Neal & Associates
    e. Mechanical drawings dated – 03/29/2024 by Baird, Hampton, Brown
    f. Plumbing drawings dated – 03/29/2024 by Baird, Hampton, Brown
    g. Electrical drawings dated – 03/29/2024 by Baird, Hampton, Brown
    h. Fire Protection – 01/05/2024 by Baird, Hampton, Brown
    i. Traffic Lights – 01/23/2024 by Lee Engineering, LLC
    j. Addendum #1 dated – 26 November 2024 by Bennett Partners
    k. Specifications dated – 29 March 2024 by Bennett Partners
2. All pricing excludes sales tax.
3. General Contractor payment and performance bonds and parent/corporate guarantees are included.
4. General Liability and Excess Liability insurance is included.
5. Builders Risk insurance is included. Associated deductibles are excluded and assumed to be paid by responsible party with use of contingency funds if available. Responsible Party is defined as person and/or company responsible for damages/claims.
6. If BR policy is included, it is limited to M&F contract value and excludes coverage for any Owner additional or soft costs.
7. The cost of permits, drawing reviews, TDLR review, inspection fees, third party inspections, and compliance testing are excluded. Inspection fees resulting from failed inspections and permits for trades are contractor's responsibility, except after hour inspections which will be paid for using the After-Hours Inspections Allowance.
8. All testing and 3rd party Test & Balance to be provided by owner, including all material testing and inspections and field testing for water leakage.
9. General Conditions and General Requirements will be a Lump Sum cost per agreement with Owner. M&F has provided a cost savings of ($47,574) which is currently reflected in the GMP.
    a. Lump Sum General Conditions $587,556.00 to be billed on a prorated monthly rate.
    b. Lump Sum General Requirements $1,735,221.00 to be billed on a prorated monthly rate.
10. Site engineering and layout is included in the cost of work.

11. Jobsite security will be comprised of project temporary fencing, locked gate access to site, and locked entries from existing building into remodeled areas. Electronic and manned security is excluded.
12. Electronic As-Built drawings are to be issued by the Design Team upon project completion. Muckleroy & Falls will document and provide As-Built drawings upon project completion; however we do not include As-Built revisions to the design documents or project model files.
13. The contract amount and associated schedule are based upon the assumption that the design team and Owner will provide deliverables as required to maintain the required scheduled dates. In the event that the schedule is extended, there may be additional GC's cost mutually agreed upon by both Owner and Contractor.
14. The schedule assumes 24/7 access to the jobsite.
15. Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Contractors to perform the Work in an efficient and conventional manner. Owner is responsible for all costs incurred in securing these necessary agreements.
16. City and Utility Company impact fees are excluded from Proposal.
17. Pricing for additional scope in order to receive LEED credits is excluded.
18. Design Team CAD files and models will be provided for use by Contractor and Subcontractors at no additional cost and without restrictions. Contractor will sign if requested by AE an electronic document release per the AE.
19. Costs associated with handling, storage, or installation and hook-up of owner furnished materials and equipment is excluded.
20. Muckleroy & Falls has not included cost premiums for system enhancements required by Owner Insurance Providers.
21. Any substitutions required due to unavailability of specified products shall be approved by Architect and incorporated into the Contract Documents. Substitutions are subject to review and approval by AE and Owner for conformance to the Contract Documents and must be equal to or greater than specified products/materials. Costs will be agreed upon, if any, by Owner/AE, and Contractor. Credits will be given if only substitute material is less than the specified products/materials. Contractor will follow substitution procedures set forth in the contract documents.
22. All approved cost adjustments (value engineering) items will be incorporated into the drawings and will not be considered substitutions. M&F will strive to provide proactive service and client centered solutions but does not accept design liability or coordination of proposed VE outside of design-build contracts.
23. Construction clean-up costs are included in the cost of the work.
24. Project Final Cleaning is included in the cost of the work.
25. Proposal includes document printing for the needs of Muckleroy & Falls project team, shop drawings and as-builts.
26. Contractor is to notify the project team of any such discrepancy should it be discovered in writing.
27. Due to site space limitations Contractor will set up an office in one of the designated construction areas.
28. Contractor Contingency has been included to cover omissions and shortages in this budget, and is not intended to fund changes in scope, enhancements, or allowances. Contractor has exclusive access to this funding. Contingency is not to be used for wholesale scope revisions resulting in an overall program modification. Contingency expenditures are to be shared with the AE and Ownership Team via written communication.

29. Cost increases can be submitted for consideration but will in no way be guaranteed to be paid by Owner. No down payments or deposits are allowed.
30. Means and Methods are responsibility of contractor. Review of any procedures will be reviewed by the Contractor's own engineer for that item. Items may be submitted for a courtesy review but will not transfer any design liability to AE or Owner.
31. Proposal cost breakdown is best effort to provide timely information for accounting purposes only. Contract scope and pricing need to be verified before making any changes according to bid breakdown.
32. Proposal assumes use of current building elevators for construction personnel use only.
33. Proposal assumes no cost for Tarrant County escort personnel as required during construction.
34. Proposal excludes cost to move furniture, equipment or storage from areas where demolition is shown to occur.
35. Proposal assumes the Owner will vacate all areas to be segregated for construction in a timely manner.
36. Proposal excludes cost for temporary water or power and includes use of Owner's current utilities.
37. Refer to the end of this document for alternate pricing for nighttime work.
38. Proposal excludes cost for street rental and assumes per the permit set that Cherry street will be closed for the duration of the project to be used as laydown area and project access.
39. Proposal excludes any/all costs parking meter fees due to removal and/or non-access.

Division 2: Existing Conditions

1. Repair of existing damage to surrounding concrete paving, hardscape, and landscape as well as additional minor anticipated damage caused by construction deliveries that is not being replaced as part of this contract shall be repaired or replaced at the Contractor's Cost.
2. Contractor shall be indemnified from claims resulting from the pre-existence of any hazardous materials. Contractor shall not be required to perform any abatement or remediation work.
3. Proposal excludes survey of existing conditions. Surveying of new building is included but based off of provided benchmarks and layout/control.
4. Demolition work is limited to the areas identified in the contract documents.

Division 3: Concrete & Precast Concrete

1. Concrete slab on grade and elevated floors will be utilized during the project for construction of subsequent activities and it is understood that normal deterioration should be anticipated. No costs have been included to install protection and/or repair with the exception of minor surface patching and topping materials as specified.
2. Contractor reserves the right to place concrete at temperatures above 95 degrees F up to 100 degrees F in accordance with ACI 305 – Hot Weather Concreting.
3. Proposal includes concrete piers to a maximum depth of 20' from top of pier.
4. Proposal excludes casing of piers. If piers are required to be cased, M&F will evaluate additional cost and schedule implications.
5. Proposal includes tailgating all concrete paving areas.
6. Proposal excludes water stops.

7. Proposal excludes rock excavation as defined by the Geotechnical Report.
8. Proposal includes cable railing for new addition.
9. Proposal excludes replacement of existing cable railing.
10. Proposal includes precast spandrel panels per exterior elevations.
11. Proposal assumes granite inserts can be supplied to precast vendor and adhered to precast during casting operation.
12. Proposal includes an allowance of $35,000 for a precast lid and wall at the new stairwell rooftop level only. Documents did not include this precast lid. Final cost will be adjusted once details are provided.

Division 4: Masonry

1. Proposal assumes that specified masonry products are readily available and will be deemed an acceptable match to the existing building masonry.
2. Proposal excludes cleaning of existing masonry, cast stone, and stone façade.
3. Proposal excludes point/patching and/or restoration of existing masonry, cast stone, and stone façade.

Division 5: Metals

1. Proposal excludes AISC certified fabricator or erector. However all steel work will be performed per AISC standards.
2. Proposal excludes any steel not clearly identified and sized.
3. Proposal excludes any/all restoration of existing structural steel exposed for new connection purposes.
4. Proposal includes a credit of ($170,530) for an alternate metal screen product. Product selected for VE is a McNICHOLS Perforated Metal panel item #1412611841.

Division 7: Thermal and Moisture Protection

1. Proposal excludes ABAA certified installers and quality assurance program.
2. Proposal excludes custom colors for caulking and sealants.
3. Proposal excludes custom colors for roofing and/or metal work.

Division 8: Glass & Doors

1. Proposal includes an allowance of $25,000 for all door hardware. Documents provided did not include a hardware schedule. Final cost will be adjusted once specifications are provided.
2. Proposal includes an allowance of $1,500 for one door/frame/hardware at level 8. Documents did not include this opening. Final cost will be adjusted once details are provided.
3. Proposal excludes access control hardware.

Division 9: Finishes

1. Proposal includes one sided plaster walls only with integral color.
2. Proposal includes painting of stairs, railings, doors and door frames, and pipe bollards.

3. Proposal includes an allowance of $3,500 for paint touch-ups.

Division 10: Specialties

1. Proposal includes an allowance of $15,000 for signage.

Division 21: Fire Protection

1. Proposal includes an engineered design/build fire protection system per NFPA 13 codes for main system and NFPA 14 codes for standpipes.
2. Proposal includes a total of three standpipes.
3. Proposal excludes painting of fire protection piping.
4. Proposal excludes heat tracing.
5. Proposal includes an allowance of $2,000 for eight (8) surface mounted fire extinguishers and cabinets.
6. Proposal excludes FDC's and backflow preventers.
7. Proposal excludes upgrading any existing systems and raising/lowering any existing piping.
8. Proposal includes an allowance of $15,000 for repairs of any/all damage found in existing piping.

Division 23: HVAC & Plumbing

1. Proposal excludes balancing, no certified third-party test or balance is included.
2. Proposal excludes building or energy management system.
3. Proposal excludes any taps, meters, or fees.
4. Proposal includes connections to existing systems as shown on the drawings. However, proposal excludes verification that existing systems/equipment are in good working order and will be adequate for new connections.
5. Proposal includes M/P demolition to the extent shown on the drawings.

Division 26: Electrical

1. Proposal assumes Owner will be responsible for communicating with tenants when scheduled power shutdowns will occur.
2. Proposal assumes that existing electrical systems are in working order and in compliance with local codes for the new fixtures required for the existing facility.
3. Proposal excludes provisions for burying overhead electrical lines.
4. Proposal excludes telecommunications or security systems for CCTV cameras and door card readers.
5. Proposal excludes removal and relocation of existing ATT equipment on existing structure top level.
6. Proposal excludes any charges associated with the Utility Company.
7. Proposal excludes any work associated with ERRC or DAS systems.
8. Proposal includes city pole lights and traffic lights per the documents provided. It is assumed that the City's requirements have been discussed and approved through the permitting process.

9. Proposal includes an allowance of $8,000 for conduit/boxes only at (16) locations for Blue Panic Buttons.

Division 28: Electronic Safety & Security

1. Proposal excludes tying into existing security/ access control systems
2. Proposal includes Fire Alarm system to meet city code minimum only and assumes tying into existing system as an extension.

Division 31: Earthwork

1. Proposal excludes any hazardous material abatement and removal.
2. Proposal excludes rock excavation as defined by the Geotechnical Report.
3. Proposal includes an allowance of $50,000 for Grading plan soils quantification. Once CAD drawings are provided, the final cost for earthwork will be provided and any overruns will be adjusted through the allowance.
4. The budget includes an allowance of $50,000 for protection of existing west wall during excavation process.
5. Proposal excludes moisture conditioning.
6. Proposal excludes lime stabilization for paving per Geotechnical report.

Division 32: Exterior Improvements

1. Proposal includes tie-in to existing irrigation system only.
2. Any warranty related to plantings assumes Owner to contract with Landscape Installer for maintenance and monitoring for warranty to be valid on vegetation.
3. Proposal includes utilization of onsite stripping for topsoil requirements.
4. Proposal excludes irrigation water meter, tap fees, backflow preventer, and master control.
5. Proposal assumes existing irrigation system will support new added lines and sprayers.
6. Proposal includes plantings per schedule provided.
7. Proposal excludes sod and/or seeding.
8. Proposal includes striping for new building and re-striping of existing building as shown.

Division 33: Site Utilities

1. Proposal includes tie-in to exiting storm system.
2. Proposal includes demolition of existing underground sanitary lines to the extent needed. Any/all lines not affecting new work will be left in place.

EXHIBIT A

Included Allowances:

Number	Description:	Cost:
1	Precast lid at the new stairwell rooftop	$35,000
2	Door hardware	$25,000
3	For one door/frame/hardware at level 8	$1,500
4	Paint touch-ups	$3,500
5	Repairs of any/all damage found in existing Fire Sprinkler system	$15,000
6	Grading plan soils quantification	$50,000
7	Protection of existing west wall during excavation process	$50,000
8	(8) surface mounted fire extinguishers and cabinets.	$2,000
9	Signage (painted or panelized)	$15,000
10	Conduit/Boxes only at (16) locations for Blue Panic Buttons	$8,000

Included Unit Rates:

Number	Item:	Unit Rate:
1	24” Pier Add	$75/LF
2	24” Pier Deduct	$12/LF
3	42” Pier Add	$192/LF
4	42” Pier Deduct	$25/LF
5	24” Pier Casing Add	$120/LF
6	42” Pier Casing Add	$295/LF

Alternates:

Number	Description:	Cost:
1	Add for nighttime work	$819,057

End of GMP Clarifications

Exhibit “B” – Preliminary Construction Schedule
Agreement Between Owner and Construction Manager
Plaza Parking Garage Expansion

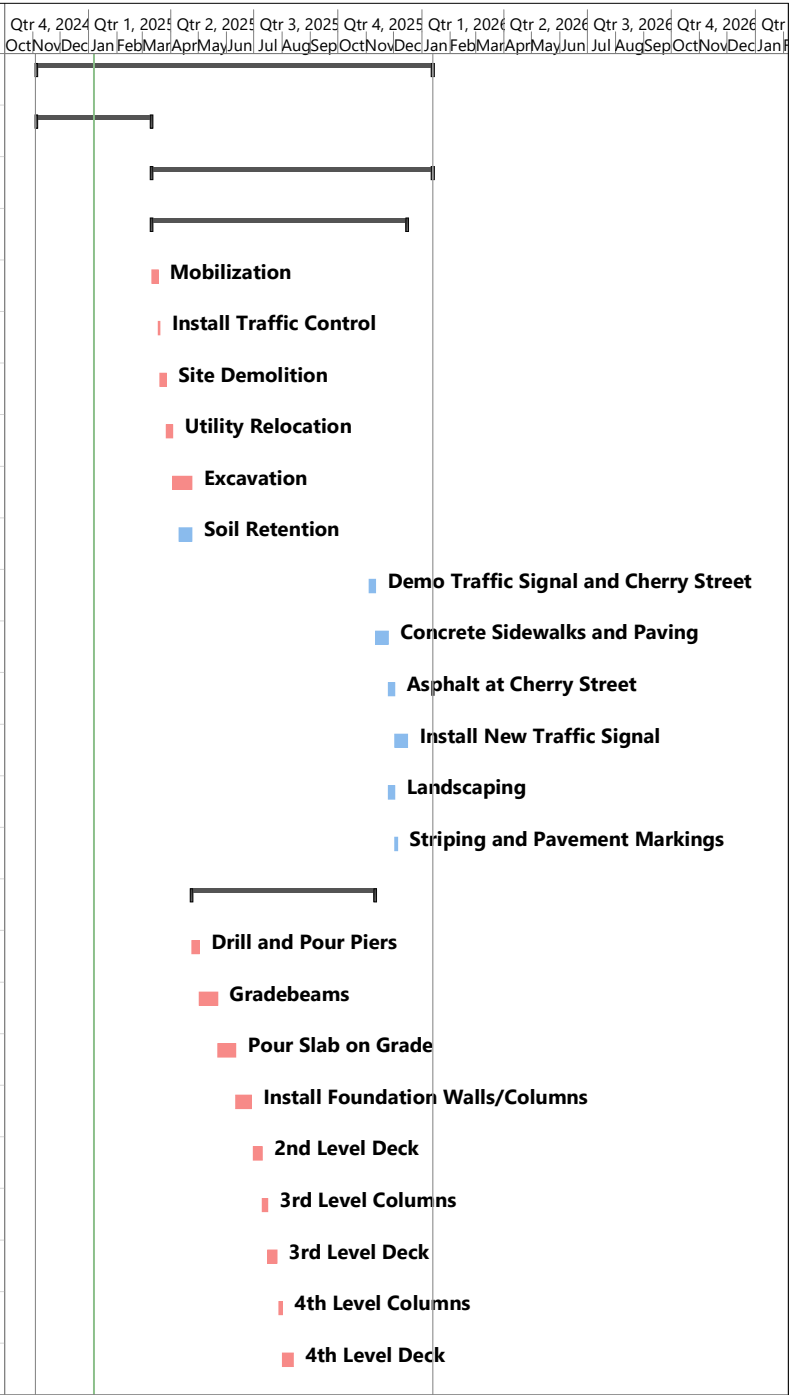
SPECIFIC DOCUMENTS IN EXHIBIT “B”:

5.1.5 DATE OF SUBSTANTIAL COMPLETION IN EXHIBIT “B” – 12/25/2025

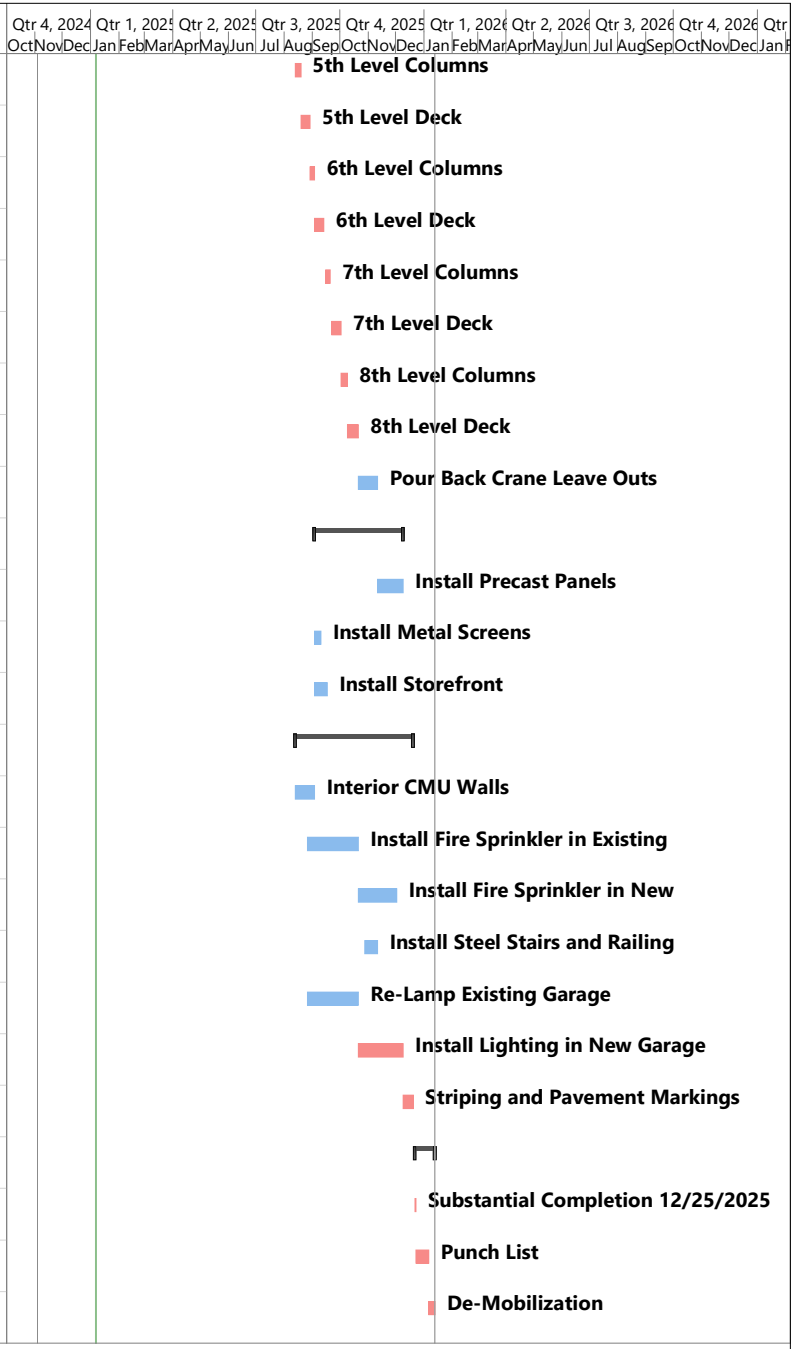
5.1.6 CONSTRUCTION SCHEDULE

5.1.7 STAFFING PLAN

ID	Task Mode	Task Name	Duration	Start	Finish
1		**Tarrant County Plaza Garage**	**310 days**	**Tue 11/05/24**	**Mon 01/12/26**
2		**Preconstruction**	**90 days**	**Tue 11/05/24**	**Mon 03/10/25**
23		**Construction**	**220 days**	**Tue 03/11/25**	**Mon 01/12/26**
24		**Site**	**200 days**	**Tue 03/11/25**	**Mon 12/15/25**
25		Mobilization	5 days	Tue 03/11/25	Mon 03/17/25
26		Install Traffic Control	2 days	Tue 03/18/25	Wed 03/19/25
27		Site Demolition	5 days	Thu 03/20/25	Wed 03/26/25
28		Utility Relocation	5 days	Thu 03/27/25	Wed 04/02/25
29		Excavation	15 days	Thu 04/03/25	Wed 04/23/25
30		Soil Retention	10 days	Thu 04/10/25	Wed 04/23/25
31		Demo Traffic Signal and Cherry Street	5 days	Tue 11/04/25	Mon 11/10/25
32		Concrete Sidewalks and Paving	10 days	Tue 11/11/25	Mon 11/24/25
33		Asphalt at Cherry Street	5 days	Tue 11/25/25	Mon 12/01/25
34		Install New Traffic Signal	10 days	Tue 12/02/25	Mon 12/15/25
35		Landscaping	5 days	Tue 11/25/25	Mon 12/01/25
36		Striping and Pavement Markings	3 days	Tue 12/02/25	Thu 12/04/25
37		**Structure**	**143 days**	**Thu 04/24/25**	**Mon 11/10/25**
38		Drill and Pour Piers	6 days	Thu 04/24/25	Thu 05/01/25
39		Gradebeams	14 days	Fri 05/02/25	Wed 05/21/25
40		Pour Slab on Grade	14 days	Thu 05/22/25	Tue 06/10/25
41		Install Foundation Walls/Columns	13 days	Wed 06/11/25	Fri 06/27/25
42		2nd Level Deck	8 days	Mon 06/30/25	Wed 07/09/25
43		3rd Level Columns	4 days	Thu 07/10/25	Tue 07/15/25
44		3rd Level Deck	8 days	Wed 07/16/25	Fri 07/25/25
45		4th Level Columns	4 days	Mon 07/28/25	Thu 07/31/25
46		4th Level Deck	8 days	Fri 08/01/25	Tue 08/12/25



ID	Task Mode	Task Name	Duration	Start	Finish
47		5th Level Columns	4 days	Wed 08/13/25	Mon 08/18/25
48		5th Level Deck	8 days	Tue 08/19/25	Thu 08/28/25
49		6th Level Columns	3 days	Fri 08/29/25	Tue 09/02/25
50		6th Level Deck	8 days	Wed 09/03/25	Fri 09/12/25
51		7th Level Columns	5 days	Mon 09/15/25	Fri 09/19/25
52		7th Level Deck	8 days	Mon 09/22/25	Wed 10/01/25
53		8th Level Columns	5 days	Thu 10/02/25	Wed 10/08/25
54		8th Level Deck	8 days	Thu 10/09/25	Mon 10/20/25
55		Pour Back Crane Leave Outs	15 days	Tue 10/21/25	Mon 11/10/25
56		**Exterior Façade**	**69 days**	**Wed 09/03/25**	**Mon 12/08/25**
57		Install Precast Panels	20 days	Tue 11/11/25	Mon 12/08/25
58		Install Metal Screens	5 days	Wed 09/03/25	Tue 09/09/25
59		Install Storefront	10 days	Wed 09/03/25	Tue 09/16/25
60		**Interior**	**93 days**	**Wed 08/13/25**	**Fri 12/19/25**
61		Interior CMU Walls	15 days	Wed 08/13/25	Tue 09/02/25
62		Install Fire Sprinkler in Existing	40 days	Tue 08/26/25	Mon 10/20/25
63		Install Fire Sprinkler in New	30 days	Tue 10/21/25	Mon 12/01/25
64		Install Steel Stairs and Railing	10 days	Tue 10/28/25	Mon 11/10/25
65		Re-Lamp Existing Garage	40 days	Tue 08/26/25	Mon 10/20/25
66		Install Lighting in New Garage	35 days	Tue 10/21/25	Mon 12/08/25
67		Striping and Pavement Markings	9 days	Tue 12/09/25	Fri 12/19/25
68		**Closeout**	**16 days**	**Mon 12/22/25**	**Mon 01/12/26**
69		Substantial Completion 12/25/2025	1 day	Mon 12/22/25	Mon 12/22/25
70		Punch List	10 days	Tue 12/23/25	Mon 01/05/26
71		De-Mobilization	5 days	Tue 01/06/26	Mon 01/12/26



TC Plaza Parking Garage PROJECT STAFFING PLAN

ROLE	DUTIES/ RESPONSIBILITIES	NAME	ALLOCATION
PROJECT DIRECTOR	Oversee project, risk management, contract review, and implementation.	Keith Melton	35%
PROJECT MANAGER	Oversee all aspects of a construction project, including planning, budgeting, scheduling, resource coordination, quality control, safety, stakeholder communication, risk management, documentation, contract management, and regulatory compliance.	Tim Carpenter	100%
DIRECTOR OF FIELD OPS	Oversight of superintendents and compliance for reporting safety and SWPPP.	Ken Hunter	25%
SUPERINTENDENT II	On site subcontractor management and coordination	Durand Avants	100%
PROJECT ENGINEER	Responsible for managing submittals, RFIs, project close-out, drawing management.	Samuel Chadick	100%
CONTROLLER	Owner billings and compliance	Johnathan Powell	5%
ACCOUNTING	Compiles pay applications, inputs invoices; code, invoices, oversee pay applications, change orders, A/P, A/R.	Kennedy DeMarco	10%

EXHIBIT C
Title VI Assurances and Compliance Policy

A. ASSURANCES

During the performance of this Agreement, MCSI, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations**: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination**: The Contractor, with regard to the work performed by it during the Term of the er Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this r Agreement and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports**: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**: In the event of a Contractor's noncompliance with the Nondiscrimination provisions of this Agreement, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

    a. withholding payments to the Contractor under the Agreement until the Contractor complies; and/or

    b. canceling, terminating, or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions**: The Contractor will include provisions analogous to paragraphs one through six in every subcontract.

B. NONDISCRIMINATION AUTHORITIES

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees, to the extent applicable to Contractor and the services provided under the Agreement to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. To ensure compliance with Title VI, governmental entities shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U .S.C. 1681 et seq).

Representations/Warranties

The Contractor also makes the following representations and warranties to Tarrant County:

1. It has taken the steps necessary to effectuate Title VI requirements.

2. Disadvantaged business enterprises are afforded equal opportunity to submit bids/proposals as sub-contractors or sub-consultants and will not be discriminated against on the grounds of race, color, sex, age, disability, religion, veteran status, or national origin in consideration of a selection or award.

3. Neither Contractor or any subcontractors or sub-recipients that will participate in activities to be funded as a result of this contract/bid/solicitation, are listed on the debarred list due to violations of Title VI or VII of the Civil Rights Act of 1964, nor are any proposed Parties to this Addendum and Employer Agreement, or any subcontract resulting therefrom, aware of any pending action which might result in such debarment or disqualification.

Contractor shall comply with all reasonable requests made in the course of an investigation of Title VI and these assurances by Tarrant County, the Texas Department of Transportation, the US Department of Transportation, the US Department of Justice, or any other federal or state agency. Failure to comply with such reasonable requests will be deemed a breach of this contract/bid/solicitation.

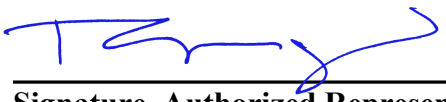
C. ENFORCEMENT

The Contractor affirmatively acknowledges that it will be subject to Title VI, and implementing regulations, and any enforcement measures therein. In addition to any enforcement

action by Tarrant County, the Contractor acknowledges that the United States and the State of Texas has a right to seek judicial enforcement with regard to any matter arising under Title VI, including the assurances herein.

Contractor's Full Name:

HM & MF, Ltd., d/b/a Muckleroy & Falls



Signature, Authorized Representative of Contractor

1/10/25

Date

Clint Moyes, VP, Operations

Name and Title

EXHIBIT D
Form 1295

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2025-1254087

Date Filed:
01/07/2025

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

HM & MF., Ltd dba Muckleroy & Falls
Fort Worth, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

HM & MF., Ltd dba Muckleroy & Falls

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

F2024161
Plaza Building Garage Expansion - Project # F2024161

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Moyes, Thomas	Fort Worth, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is Thomas C Moyes, and my date of birth is 7/18/1982.

My address is 3200 Riverfront Dr Suite 200 (street), Fort Worth (city), TX (state), 76107 (zip code), USA (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Tarrant County, State of Texas, on the 7th day of January (month), 20 25 (year).

Signature of authorized agent of contracting business entity
(Declarant)

EXHIBIT E
Insurance Certificate

HM&MFLT-01 KJACKSON2

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 1/7/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 4682 Fort Worth, TX-Hub International Insurance Services 3221 Collinsworth Fort Worth, TX 76107	CONTACT NAME: PHONE (A/C, No, Ext): (817) 820-8100 FAX (A/C, No): (817) 870-0310 E-MAIL ADDRESS: ftw.service@hubinternational.com
INSURED HM & MF Ltd. dba Muckleroy & Falls 3200 Riverfront Drive, Suite 200 Fort Worth, TX 76107	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : National Union Fire Insurance Company of Pittsburgh, PA — 19445 INSURER B : Aspen American Insurance Company — 43460 INSURER C : New Hampshire Insurance Company — 23841 INSURER D : Arch Specialty Insurance Company — 21199 INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:			6896115	9/1/2024	9/1/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 2,000,000 $ 300,000 $ 10,000 $ 2,000,000 $ 4,000,000 $ 4,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY			5774716	9/1/2024	9/1/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 2,000,000 $ $ $
B	UMBRELLA LIAB X OCCUR X EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 0			CX006L824	9/1/2024	9/1/2025	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		13265805	9/1/2024	9/1/2025	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 2,000,000 $ 2,000,000 $ 2,000,000
D	Errors & Omissions			PDCPP0022007	9/1/2024	9/1/2025	Aggregate/Claim	1,000,000

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

General Liability Endorsements
CG 20 01 (12/19) Primary and Non-Contributory – Other Insurance Condition
CG 20 10 (12/19) Additional Insured – Owners, Lessees or Contractors (blanket wording)
CG 20 11 (12/19) Additional Insured – Managers or Lessors of Premises (blanket wording)
CG 20 15 (12/19) Additional Insured – Vendors (blanket wording)
CG 20 28 (12/19) Additional Insured – Lessor of Leased Equipment
CG 20 32 (12/19) Additional Insured – Engineers, Architects or Surveyors Not Engaged by the Insured
SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

Tarrant County Facilities Management
200 Taylor Street
Suite 344
Fort Worth, TX 76196

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: HM&MFLT-01 KJACKSON2

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY	License # 4682	NAMED INSURED
Fort Worth, TX-Hub International Insurance Services		HM & MF Ltd. dba Muckleroy & Falls 3200 Riverfront Drive, Suite 200 Fort Worth, TX 76107
POLICY NUMBER		
SEE PAGE 1		
CARRIER	NAIC CODE	EFFECTIVE DATE: SEE PAGE 1
SEE PAGE 1	SEE P 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:
CG 20 33 (12/19) Additional Insured – Owners, Lessees or Contractors (blanket wording)
CG 20 37 (12/19) Additional Insured – Owners, Lessees or Contractors – Completed Operations (blanket wording)
CG 24 04 (12/19) Waiver of Transfer of Rights of Recovery Against Others to Us (blanket wording)
CG 02 24 (10/93) Earlier Notice of Cancellation Provided by Us (Amended Notice of Cancellation 60 days, except for Non-Payment of Premium)
84337 (04/04) Amendment of Limits of Insurance (Per Project Aggregate Limit) (N/A in NY, OK) - subject to a $15,000,000 annual aggregate cap
Commercial Auto Endorsements
62897 (06/95) Waiver of Transfer of Rights of Recovery Against Others to Us (blanket wording)
87950 (09/14) Additional Insured – Where Required Under Contract or Agreement (blanket wording) (N/A in AK, CA, FL, HI, MA, NY, VA); NY 94199 (03/07)
62138 (03/95) Early Notice of Cancellation Provided by Us: 90 days, except for 10 days for Non-Payment of Premium
CA 20 01 (10/13) Lessor - Additional Insured and Loss Payee (blanket wording) (N/A in KS)
Workers Compensation Endorsements
WC 00 03 13 (04/84) Waiver of Subrogation (blanket wording) (N/A in KY, NH, NJ)
WC 00 03 01 (04/84) Alternate Employer Endorsement - ANY Alternate Employer of your employees

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KJACKSON2

EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
9/27/2024

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY	PHONE (A/C, No, Ext): (817) 820-8100	COMPANY
Fort Worth, TX-Hub International Insurance Services 3221 Collinsworth Fort Worth, TX 76107		Continental Casualty Company
FAX (A/C, No): (817) 870-0310	E-MAIL ADDRESS: ftw.service@hubinternational.com	
CODE: 700817	SUB CODE:	
AGENCY CUSTOMER ID #: HM&MFLT-01	License # 4682	

INSURED	LOAN NUMBER	POLICY NUMBER
HM & MF Ltd. dba Muckleroy & Falls 3200 Riverfront Drive, Suite 200 Fort Worth, TX 76107		6049918867
	EFFECTIVE DATE: 8/28/2024 — EXPIRATION DATE: 8/28/2025 — ☐ CONTINUED UNTIL TERMINATED IF CHECKED	
	THIS REPLACES PRIOR EVIDENCE DATED:	

PROPERTY INFORMATION

LOCATION/DESCRIPTION

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION

PERILS INSURED ☐ BASIC ☐ BROAD ☒ SPECIAL ☐

COVERAGE / PERILS / FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
Builders Risk Coverage/Replacement Cost		
Catastrophe Limit per disaster Limit	$50,000,000	2,500
All other Constructions Limit	$10,000,000	2,500
Earthquake Limit	$1,000,000	50,000
Flood Limit	$1,000,000	50,000
Frame Construction Limit	$2,000,000	2,500
Limit at temporary location Limit	$500,000	2,500
Transit Limit	$500,000	2,500

REMARKS (Including Special Conditions)

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

NAME AND ADDRESS		
Tarrant County 100 East Weatherford Street Fort Worth, TX 76196	☐ ADDITIONAL INSURED ☐ MORTGAGEE ☐ LENDER'S LOSS PAYABLE ☐ LOSS PAYEE	LOAN #
		AUTHORIZED REPRESENTATIVE

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EXHIBIT F

COMPLIANCE WITH STATE LAW & FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS FORM

Compliance with all items on the following form, as applicable, are required and a signature is required on the last page

1. **CLEAN AIR ACT.** If this Agreement is in excess of $150,000, VENDOR must comply with the following:

   a. VENDOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

   b. VENDOR agrees to report each violation to COUNTY and understands and agrees that COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

   c. VENDOR agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA or other Federal funds.

2. **FEDERAL WATER POLLUTION CONTROL ACT**. If this Agreement is in excess of $150,000, VENDOR must comply with the following:

   a. VENDOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

   b. VENDOR agrees to report each violation to COUNTY and understands and agrees that COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

   c. VENDOR agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA or other Federal funds.

3. **SUSPENSION AND DEBARMENT.**

   a. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. VENDOR certifies that VENDOR, VENDOR's principals (defined at 2C.F.R. Sec. 180.995), or its affiliates (defined at 2

      i. C.F.R. Sec. 180.905) are not excluded (defined at 2 C.F.R. Sec. 180.940) or disqualified (defined at 2 C.F.R. Sec. 180.935).

   b. VENDOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

c. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that VENDOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, in addition to remedies available to COUNTY, the Federal Government may pursue available remedies, includingbut limited to suspension and/or debarment.

d. VENDOR agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000 during the term of this Agreement. VENDOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

e. All eligible recipients are required to have an active registration with the System for Award Management ("SAM") (https://www.sam.gov) pursuant to 2 CFR Part 25.

4. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. Sec. 1352 (as amended). If VENDOR applied or bid for an award of $100,000 or more, VENDOR shall file the required certification in Exhibit 1. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. Sec. 1352. Each contracting tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

5. DAVIS-BACON ACT (PREVAILING WAGE). If this Agreement is a prime construction contract in excess of $2,000, the VENDOR (and its Subcontractors) must comply with the Davis-Bacon Act as codified in 40 U.S.C. §§ 3141-3148 and as supplemented by Department of Labor Regulations in 29 C.F.R. Part 5. During performance of this Agreement, VENDOR agrees as follows:

a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C §§ 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. Part 5 as may be applicable. The VENDOR shall comply with 40 U.S.C. §§ 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. part 5 as applicable.

b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

c. Additionally, contractors are required to pay wages not less than once a week.

6. COPELAND "ANTI-KICKBACK" ACT. If this Agreement is a contract for construction or repair work in excess of $2,000 where the Davis-Bacon Act applies, VENDOR must comply with the Copeland "Anti-Kickback" Act as codified in 40 U.S.C. § 3145, which prohibits the VENDOR and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled, and during performance of this Agreement, the VENDOR agrees as follows:

a. VENDOR. The VENDOR shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this contract.

b. Subcontracts. The VENDOR or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

7. PROCUREMENT AND RECOVERED MATERIALS.

a. In the performance of this Agreement, VENDOR will use its best effort to make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired – (i) competitively within a timeframe providing for compliance with the contract performance schedule; (ii) meeting contract performance requirements; or (iii) at a reasonable price.

b. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

c. VENDOR also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

d. To the greatest extent practicable, VENDOR shall provide a preference for the purchase, acquisition, or use of good, products, or materials produced in the United States, including but not limited to iron, aluminum, steel, cement, and other manufactured products. The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

1. For purposes of this section:

A. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

B. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

8. CIVIL RIGHTS.

a. VENDOR agrees to comply with state and federal anti-discrimination laws, including:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);

ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);

iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);

iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);

v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);

vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and

vii. The System Agency’s administrative rules, as set forth in the *Texas Administrative Code*, to the extent applicable to this Agreement.

b. VENDOR agrees to comply with all amendments to these laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any service or other benefit provided by Federal or State funding, or otherwise be subjected to discrimination.

c. VENDOR agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis ofnational origin. Civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. VENDOR agrees to take reasonable steps to provide services and information, both orally and in writing and electronically, in appropriate languages

other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

d. In particular, VENDOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. VENDOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. VENDOR agrees to postin conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

e. VENDOR will, in all solicitations or advertisements for employees placed by or on behalf of VENDOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

f. VENDOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

g. VENDOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

h. VENDOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

i. In the event of VENDOR’s noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

j. VENDOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. VENDOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

9. COMPLIANCE WITH CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.

a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-halftimes the basic rate of pay for all hours worked in excess of forty hours in such workweek.

b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

c. Withholding for unpaid wages and liquidated damages. PROVIDER shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2)of this section.

d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

10. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

a. VENDOR is prohibited from obligating or expending loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

b. As described in Public Law 115-232, section 889, "covered telecommunications equipment" means any of the following:

1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities;

2. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

3. Telecommunications or video surveillance services provided by such entities or using such equipment; or

4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

11. EQUAL OPPORTUNITY CLAUSE. If this Agreement is a "federally assisted construction contract" as defined in 41 C.F.R. Part 60-1.3, and except as otherwise may be provided under 41 C.F.R. Part 60, then during the performance of this Agreement, the VENDOR agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action

shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

d. The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

f. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

g. In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or

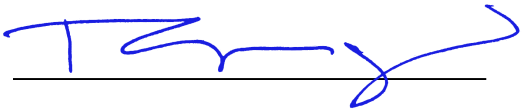
suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided,* however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

12. DEFAULT.

In the event of a substantial failure by either Party to perform in accordance with the terms hereof, the non-defaulting Party may terminate this Agreement upon thirty (30) days' written notice setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the thirty-day period), provided that said failure is through no fault of the non-defaulting Party.

Signed & Certified By:



Clint Moyes
Printed Name

Vice President, Operations
Title

HM & MF Ltd. d/b/a Muckleroy & Falls
Name of Vendor Company

1/10/2025
Date Signed & Certified

Enter your SAM Unique Entity ID: DCJ8WK4MGQN5

If you do not have a SAM Unique Entity ID, you will need to provide one prior to award.

Exhibit G

Byrd Anti-Lobbying Certification

Contractor must complete this certification if the purchase will be paid for in whole or in part with funds obtained from the federal government and the purchase is greater than $100,000.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

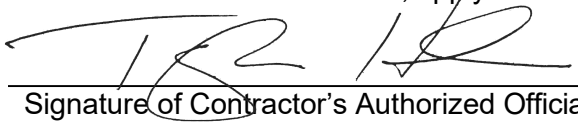
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor, HM & MF Ltd. d/b/a Muckleroy & Falls, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and statements, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Taylor Hale, President

Name and Title of Contractor's Authorized Official

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General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)
Plaza Parking Garage Expansion
601 West Weatherford Street
Fort Worth, Texas 76196

THE OWNER:
(Name, legal status and address)
County of Tarrant
100 E. Weatherford Street
Fort Worth, Texas 76196

THE ARCHITECT:
(Name, legal status and address)
Bennett Partners
640 Taylor Street, Suite 2323
Fort Worth, Texas 76102

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT

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

§ 1.1.3 THE WORK

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

§ 1.1.4 THE PROJECT

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

§ 1.1.5 THE DRAWINGS

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

§ 1.1.6 THE SPECIFICATIONS

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

§ 1.1.7 INSTRUMENTS OF SERVICE

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

§ 1.1.8 INITIAL DECISION MAKER

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

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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

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

§ 1.3 CAPITALIZATION

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

§ 1.4 INTERPRETATION

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

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

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

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

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

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

ARTICLE 2 OWNER

§ 2.1 GENERAL

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

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

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

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

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

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

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

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

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

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

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

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

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

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

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§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

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

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

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

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

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

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

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

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

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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

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

§ 3.5 WARRANTY

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

§ 3.6 TAXES

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

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

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

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

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

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters 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

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

§ 3.8 ALLOWANCES

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

.1 Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

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

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

§ 3.9 SUPERINTENDENT

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

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

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

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

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

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

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

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

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

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

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

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

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

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

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

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

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

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

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

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

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

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

§ 3.13 USE OF SITE

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

§ 3.14 CUTTING AND PATCHING

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

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

§ 3.15 CLEANING UP

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

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

§ 3.16 ACCESS TO WORK

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

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

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

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and 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

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

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

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

§ 4.2 ADMINISTRATION OF THE CONTRACT

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

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

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

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

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

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

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

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

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

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

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

§ 5.3 SUBCONTRACTUAL RELATIONS

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

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

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

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

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

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

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

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

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

§ 6.2 MUTUAL RESPONSIBILITY

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

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

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

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

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

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§ 6.3 OWNER'S RIGHT TO CLEAN UP

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

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

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

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

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

§ 7.2 CHANGE ORDERS

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

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

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

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

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

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

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

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

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

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

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

.1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

.2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.5 Additional costs of supervision and field office personnel directly attributable to the change.

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

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

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

§ 7.4 MINOR CHANGES IN THE WORK

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

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

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

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

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

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

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§ 8.2 PROGRESS AND COMPLETION

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

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

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

§ 8.3 DELAYS AND EXTENSIONS OF TIME

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

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

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

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

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

§ 9.2 SCHEDULE OF VALUES

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

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

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

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

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon

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compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

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

§ 9.4 CERTIFICATES FOR PAYMENT

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

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

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

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

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

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

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

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

§ 9.6 PROGRESS PAYMENTS

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

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

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

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

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

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

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

§ 9.7 FAILURE OF PAYMENT

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

§ 9.8 SUBSTANTIAL COMPLETION

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

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

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

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

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

§ 9.9 PARTIAL OCCUPANCY OR USE

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

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

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

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

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

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

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

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

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

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

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

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

§ 10.2 SAFETY OF PERSONS AND PROPERTY

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

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

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

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

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

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

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

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

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

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

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

§ 10.3 HAZARDOUS MATERIALS

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

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

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

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

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

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

§ 10.4 EMERGENCIES

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

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

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

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

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

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

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

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insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 OWNER'S LIABILITY INSURANCE

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

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

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

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

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

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

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

§ 11.3.2 BOILER AND MACHINERY INSURANCE

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

§ 11.3.3 LOSS OF USE INSURANCE

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

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

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

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

§ 11.3.7 WAIVERS OF SUBROGATION

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

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

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

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

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

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

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

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

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

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

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

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

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

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

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

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

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 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

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sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

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

§ 13.2 SUCCESSORS AND ASSIGNS

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

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

§ 13.3 WRITTEN NOTICE

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

§ 13.4 RIGHTS AND REMEDIES

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

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

§ 13.5 TESTS AND INSPECTIONS

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

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

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

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

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

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

§ 13.6 INTEREST

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

§ 13.7 TIME LIMITS ON CLAIMS

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

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

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

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

.3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

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

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

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

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§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

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

.1 Exclude the Contractor from the site and take possession of all materials, 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 as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

.1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

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

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

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

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 15.1.2 NOTICE OF CLAIMS

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

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

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

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

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

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

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

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

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

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

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

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

§ 15.2 INITIAL DECISION

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

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

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

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a 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 an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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

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

§ 15.3 MEDIATION

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.

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

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

§ 15.4 ARBITRATION

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

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

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

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

§ 15.4.4 CONSOLIDATION OR JOINDER

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

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

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

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TARRANT COUNTY SUPPLEMENTARY CONDITIONS

The following Supplementary Conditions modify the General Conditions (A201 -- 2007) of the Contract for Construction. These Supplementary Conditions replace any General Conditions (A201 – 2007) to the extent the two documents contradict each other. The Standard Agreement between the Contractor and the Owner controls the Supplementary Conditions to the extent these two documents contradict each other. So, the order of precedence for interpretation is: (1) The Standard Agreement between the Contractor and the Owner; (2) The Supplementary Conditions; and (3) The General Conditions (A201 – 2007).

Delete existing 1.1.3 in its entirety and replace with the following:

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 and labor, materials, equipment and services provided or to be provided by trade contractors, subcontractors, sub-subcontractors, material suppliers, or any other entity for whom the Contractor is responsible under or pursuant to the Contract. The Work may constitute the whole or a part of the Project.

Delete existing 1.1.8 in its entirety and replace with the following:

1.1.8 DEFINITIONS

1.1.8.1 "Provide" and its derivatives will mean to properly coordinate, fabricate, complete, transport, deliver, install, erect, construct, test and furnish all labor, materials, equipment, apparatus, appurtenances, and all items and expenses necessary to properly complete in place, and render operational or usable under the terms of the Specifications.

1.1.8.2 "Knowledge," "recognize," and "discover," their respective derivatives and similar terms used in the Contract Documents, as used in reference to the Contractor, will be interpreted to mean that which the Contractor knows (or should know), recognizes (or should recognize) and discovers in exercising the care, skill and diligence required of a Contractor (but not a design professional) by the Contract Documents.

1.1.8.3 "Contractor" means Construction Manager at Risk if the Standard Form of Agreement is between the Construction Manager at Risk and the Owner.

1.1.8.4 "Subcontractor" means Trade Contractor as that term is used in the Standard Form of Agreement between the Construction Manager at Risk and the Owner.

1.1.8.5 "Sub-subcontractor" means an entity that works for or supplies goods or services to a Subcontractor for incorporation or use in the Work.

Add the following as 1.2.4:

1.2.4 INTENT OF DRAWINGS

1.2.4.1 Drawings are in part diagrammatic, and do not necessarily show complete details of construction, materials, or installation, and do not necessarily show how construction details or other items of work or fixtures or equipment may affect any particular installation. The drawings will be ascertained by the Contractor and correlated to bring the parts together to a complete whole.

1.2.4.2 All dimensions will be verified by field measurements and all work laid out to permit pipes, valves, ductwork, lights, panels, other items of construction, to be located as closely as possible to locations shown. All items will be checked before installation to determine that they can be concealed properly, and that they clear any structural components, supports for other items, and cabinets and equipment or other mechanical, electrical or architectural items having fixed locations.

1.2.4.3 Work will be laid out to assure ready accessibility to valves, fittings, and other items requiring servicing, adjustment or checking.

1.2.4.4 If Work is required in a manner which makes it impossible to produce the Work in accordance with the Contract Documents, or should errors, omissions, or discrepancies be discovered in the Contract Documents, the Contractor will request in writing an interpretation before proceeding with Work. If Contractor fails to make such a written request after discovering same, no excuse or claim will be entertained for failure to carry out Work in a satisfactory manner. Should conflict occur in or between Drawings and Specifications, Contractor is deemed to have estimated and included in the Contract Sum the more expensive way of doing the Work, unless he will have asked for and obtained a written decision before execution of the Agreement.

Delete existing 1.5 in its entirety and replace with the following:

1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

1.5.1 The Drawings, Specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier will own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or the Architect's consultants, and unless otherwise indicated the Architect and the Architect's consultants will be deemed the authors of them. All copies of Instruments of Service, except the Contractor's record set, will be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce

applicable portions of the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization will bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the copyrights or other reserved rights.

Add the following as 1.7:

1.7 EXECUTION OF CONTRACT DOCUMENTS

1.7.1 The drawing log list of Contract Documents will be signed by the Owner and Contractor. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect will identify such unsigned Documents upon request.

1.7.2 At the time the parties execute Amendment No. 1 establishing the Guaranteed Maximum Price, Contractor will be representing by its execution that the Contractor has thoroughly reviewed all of the Contract Documents and that based on such review and to the best knowledge of the Contractor that said Contract Documents are sufficient to have enabled the Contractor to determine the Guaranteed Maximum Price, without however assuming any responsibility for design. The Contractor further acknowledges and declares that it has visited and examined the site and reasonably examined the physical and other conditions affecting the work including, without limitation, survey and engineering reports and studies delivered to or obtained by Contractor. In connection therewith, Contractor specifically will represent to Owner that to its best knowledge and belief it has, by careful examination, satisfied itself as to: (1) the nature, location, and character of the Project and the site, excluding subsurface and latent conditions; (2) the nature, location, and character of the general area in which the Project is located; and (3) the quality and quantity of all materials, supplies, tools, equipment, labor, necessary to complete the Work in the manner and within the cost and time frame required by the Contract Documents. In arriving at the Contract Sum and the Contract Time, Contractor has, as an experienced and prudent manager and contractor, exercised its reasonable judgment and expertise to include the impact of such circumstances upon the Contract Sum and the Contract Time.

1.7.2.1 Claims for additional compensation or time because of the failure of the Contractor to familiarize itself with visible surface conditions, excluding subsurface and latent conditions, at the site will not be allowed.

1.7.2.2 The Contractor will evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation (1) the location, layout and nature of the Project site and surrounding areas, (2) generally prevailing climatic conditions, (3) anticipated labor supply and costs, and (4) availability and cost of materials, tools and equipment. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project Site other than unforeseen concealed or latent conditions. The Contractor will be solely responsible for providing a safe place for the performance of the Work. The Owner will not be required to make any adjustment

in either the Contract Sum or Contract Time in connection with any failure by the Contractor to comply with the requirements of Section 1.7.2 and its subparts.

Delete existing 2.1 in its entirety and replace with the following:

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 will designate in writing a representative who will have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. However, the owner's representative has no authority to approve a change to the cost of the project or a change to the time of the project. The Architect does not have authority to approve a change to the cost of the project or change to the time of a project. The term "Owner" means the Owner or the Owner's authorized representative.

2.1.2 The Owner will 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 will 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.

Delete existing 2.2 in its entirety and replace with the following:

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.2.1 Except for permits and fees, including those required under Section 3.7.1, which are the responsibility of the Contractor under the Contract Documents, the Owner will 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. Owner will pay for all permit fees, inspection fees and Certificates of Occupancy fees.

2.2.2 The Owner will pay for all utility assessment fees.

2.2.3 The Owner will 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 will be entitled to rely on the accuracy of information furnished by the Owner but will exercise proper precautions relating to the safe performance of the Work. Contractor will confirm the location of each utility, will excavate and dispose of each on-site utility and will cap each off- site utility as required by the Work and as may be included in the Specifications, At the Owner's request, the Contractor will make available the results of any site investigation, test borings, analyses, studies or other tests conducted by or in possession of the Contractor or any of its agents. The Contractor represents that it is generally familiar with the Project site. The Contractor represents that it has inspected the location of the Work and has satisfied itself as to the condition thereof, including without limitation, all observable structural and surface conditions. The Contractor will exercise special care in executing subsurface work in proximity of known subsurface utilities, improvements and easements.

2.2.4 Upon receipt of a written request from the Contractor, information or services required of the Owner by the Contract Documents will be furnished by the Owner with reasonable promptness. Any other information or services relevant to the Contractor's performance of the Work under the Owner's control will be furnished by the Owner after receipt from the Contractor of a written request for such information or services.

2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, all required copies of Drawings and Project Manuals.

Delete existing 2.3 in its entirety and replace with the following:

2.3 OWNER'S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work will 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.

Delete existing 2.4 in its entirety and replace with the following:

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such ten-day period, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case the cost of correcting such deficiencies will be charged against the Guaranteed Maximum Price. If the cost of correcting such deficiencies exceeds the unpaid balance of the Guaranteed Maximum Price, the Contractor will pay the difference to the Owner. The right of the Owner under this section does not give rise to any duty on the part of the Owner to exercise this right for the benefit of any other person.

Delete existing 3.2.2 in its entirety and replace with the following:

3.2.2 Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor will carefully study and compare the various Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, will take field measurements of any existing conditions, excluding concealed or latent conditions, related to that portion of the Work and will observe any conditions at the site affecting it. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered by the Contractor will be reported promptly to the Architect and Owner as a request for information in such form as the Architect and Owner may require.

Delete existing 3.2.3 in its entirety and replace with the following:

3.2.3 Any design errors or omissions noted by the Contractor during this review will be reported promptly to the Architect and Owner, but 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. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or made known to the Contractor will be reported promptly to the Architect and Owner.

Delete existing 3.2.4 in its entirety and replace with the following:

3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions issued by the Architect in response to the Contractor's notices or requests for information pursuant to Sections 3.2.3 and 3.2.2, the Contractor will make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.1 and 3.2.2, the Contractor will pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. The Contractor will not be liable to the Owner or Architect for damages resulting from errors, inconsistencies, or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized such error, inconsistency, omission or difference and failed to report it to the Architect.

Add the following as 3.2.5:

3.2.5 The Contractor will notify the Architect of materials, systems, procedures, or methods of construction, either shown on the drawings or specified, that it believes are incorrect, inadequate, obsolete, unsuitable for the purpose intended, or which could have an adverse effect upon installation or completion by others under separate contracts. The Architect will make a determination of these matters in writing to the Contractor who will forward the determination to the Owner for the Owner's final approval.

Delete existing 3.3.1 in its entirety and replace with the following:

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

acceptance of changes proposed by the Contractor, the Owner will be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

Add the following as 3.3.4, 3.3.5, 3.3.6, 3.3.7, 3.3.8 and 3.3.9:

3.3.4 All employees and subcontractors of the Contractor will be qualified by training and experience to perform their assigned tasks. At the request of Owner, the Contractor will not use in the performance of the Work any employee or subcontractor deemed by Owner to be incompetent, careless, unqualified to perform the Work assigned to him, or otherwise unsatisfactory to Owner. Contractor will always engage sufficient workers on the Project, at all times, to perform the Work in the time periods required by the Contract.

3.3.5 The Contractor agrees that in the performance of the Work called for by this Agreement, it will employ only such labor, and engage Subcontractors that employ only such labor, as will not delay or interfere with the speedy and lawful progress of the Project, and as will be acceptable to and work in harmony with all other workers employed on the Project site or on any other building, structure or other improvement which the Contractor or any other contractor may then be erecting or altering on behalf of Owner. In the event of a strike or stoppage of work resulting from a dispute involving or affecting the labor employed by the Contractor or any of its Subcontractor, Owner may, at its option and without demand, terminate this Agreement unless the Contractor will remedy the strike or work stoppage or other disruption within seven (7) calendar days after the dispute arises.

3.3.6 Contractor will furnish Owner, on request, resumes of Contractor's key personnel involved in the day-to-day Work on the project.

3.3.7 Contractor will not permit at any time alcohol, controlled substances, or firearms to be present at the Project Site.

3.3.8 Contractor will be responsible for properly laying out the Work, and for all lines, elevations, and measurements for all of the Work executed under the Contract Documents. He will verify the figures shown on the drawings before laying out the Work and will be held responsible for activities resulting from his failure to do so.

3.3.9 The Contractor has the responsibility to ensure that all material suppliers and Subcontractors, their agents, and employees adhere to the Contract Documents, and that they order materials on time, taking into account the current market and delivery conditions, and that they provide materials on time. The Contractor will coordinate its Work with that of all others on the Project including deliveries, storage, installations, and construction utilities. The Contractor will be responsible for the space requirements, locations, and routing of all materials and equipment. In areas and locations where the proper and most effective space requirements, locations, and routing cannot be made as indicated, the Contractor will meet with all others involved, before installation, to plan the most effective and efficient method of overall installation.

Delete existing 3.4.2 in its entirety and replace with the following:

3.4.2 The Contractor may make substitutions only with the consent of the Owner, after

evaluation by the Architect and in accordance with a Change Order.

Add the following as 3.4.4 and 3.4.5:

3.4.4 Should the Contractor elect to perform work after regular working hours, the additional cost of such work will be borne by the Contractor, as part of the Contract Sum.

3.4.5 Products are generally specified by ASTM, other reference standard, manufacturer's name and model number or trade name. When specified by reference standard, the Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, the Contractor has the option of using any listed product and manufacturer combination. When one product and manufacturer is specified, the Contractor may not substitute for that product.

3.4.5.1 After Contract execution, the Owner may consider product substitution, if the formal request meets the following:

(a) If the product is no longer available, the Contractor must submit its written request within 15 days of the Contract execution. For a request after that deadline, the request must include a certified statement from the manufacturer that the product is no longer available;

(b) The written request includes data identifying the product and substantiating its compliance with the Contract Documents. Where applicable, the request should include performance and test data, references, samples and an itemized comparison of the proposed substitution with the item specified; and

(c) The request includes cost data comparing the substitution with the specified product.

3.4.5.2 By submitting a written request for substitution the Contractor represents:

(a) The proposed substitution is equal or superior to the specified item in all respects;

(b) The proposed substitution does not change the Contractor warranty for the construction;

(c) The cost of the proposed substitution is completely disclosed;

(d) The Contractor waives all claims for additional costs related to the substitution which subsequently become apparent; and

(e) The Contractor will coordinate the substitution's installation, making changes that the substitution may cause in order for the Work to be complete.

3.4.5.3 Owner will not consider substitutions if:

(a) Made after the expiration of the specified time period;

(b) Indicated or implied on shop drawings submissions without the formal request described in 3.4.5.1; or

(c) Implementation of the substitution would substantially revise the Work or the Contract Documents.

Delete existing 3.5 in its entirety and replace with the following:

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 otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications 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 will furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor further warrants to the Owner that the Work will be performed and completed in a good and workmanlike manner, in accordance with the Contract Documents, all applicable building codes, good engineering and construction practices provided that the design meets all applicable building codes and good engineering practices. The Contractor will correct Work with errors, omissions, defects, or deviations from the Contract Documents, within the Guaranteed Maximum Cost and without additional cost to Owner.

3.5.2 All warranties will include labor and materials and will be signed by the manufacturer and/or Subcontractor as the case may be and countersigned by the Contractor. All warranties will be delivered to the Owner's Representative with copies to the Architect upon completion of the Work and before the submission of request for final payment. At the time of final completion of the Work, the Contractor agrees to assign to the Owner any and all manufacturers' warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturers' warranties.

3.5.3 The Contractor represents, warrants, and covenants to the Owner that it is fully licensed, certified and authorized to enter into the Contract and that it and the Subcontractors are and will continue to be fully licensed, certified and authorized to perform the Work contemplated by the Contract Documents and any other work performed at the Project and will provide evidence of the same to the Owner upon request.

Delete existing 3.6 in its entirety and replace with the following:

3.6 TAXES

3.6.1 The Work qualifies for exemption from state and local sales tax. Contractor will provide

exemption certificates as required by state law to suppliers. Owner will cooperate with Contractor regarding this exemption.

3.6.2 All prices quoted by the Contractor, or any subcontractor or supplier engaged by the Contractor or any subcontractor, are deemed to include all federal, state, and local taxes, including without limitation, sales taxes, custom duties and excise taxes, effective at the date of purchase. Any such tax which is found to be inapplicable or for which exemption may be obtained is, to the extent of any refund or exemption available, the property of Owner. The purchase, lease, rental, storage, use or other consumption of tangible personal property for the performance of this Contract by the Contractor is exempt from state and local sales tax pursuant to section 151.311 of the Texas Tax Code. Contractor must use all reasonable efforts to claim the benefit of any exemption. Owner will receive the benefit of all reductions in the cost of construction attributable to the sales tax exemptions. This provision will control over any provision of the Contract Documents to the contrary.

Delete existing 3.7.2 in its entirety and replace with the following:

3.7.2 The Contractor will comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work. In addition to and not in derogation of Contractor's duties under Section 1.2.1 hereof, Contractor will have the obligation to carefully study and compare the Contract Documents with one another and with its own information and the information furnished by the Owner pursuant to Section 2.2.3 and promptly report to Architect and Owner any errors, inconsistencies, or omissions discovered or any variance from applicable laws, codes or regulations of which Contractor is or reasonably should be aware other than the responsibilities of the Architect or Engineer.

Delete existing 3.7.4 and replace with the following:

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, 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 an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

Delete existing 3.9.1 and replace with the following:

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.

Delete existing 3.10.1 in its entirety and replace with the following:

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

Delete existing 3.11 in its entirety and replace with the following:

3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor will maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders, and other Modifications, in good order and marked currently to record field changes and selections made during construction, and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These will be available to the Architect and will be delivered to the Architect for submittal to the Owner upon completion of the Work, signed by the Contractor, certifying that they show complete and "as-built" conditions.

Delete existing 3.12.7 in its entirety and replace with the following:

3.12.7 The Contractor will submit to Owner one copy of all submissions made to the Architect pursuant to this Section 3.12. The Owner will review each submission with promptness and provide any comments to the Architect prior to the Architect submitting back to the Contractor.

3.12.7.1 The Contractor will 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 reviewed by the Architect.

Delete existing 3.12.8 in its entirety and replace with the following:

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

Delete existing 3.12.10 in its entirety and replace with the following:

3.12.10 The Contractor will not be required to provide professional services which constitute the practice of Architecture and Engineering.

Add the following as 3.12.11:

3.12.11 The Contractor will assemble for the Architect's review two complete copies in loose leaf binders of operating and maintenance data from the manufacturers whose equipment is or will be installed in the Work. The Contractor will also prepare a checklist or schedule showing the type of lubricant to be used at each point of application and the intervals between lubrication for each item of equipment.

Delete existing 3.15 in its entirety and replace with the following:

3.15 CLEANING UP

3.15.1 The Contractor will keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor will remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials. The Contractor will maintain streets and sidewalks around the Project site in a clean condition. The Contractor will remove all spillage and tracking arising from the performance of the Work from such areas and will establish a regular maintenance program of sweeping and hosing to minimize accumulation of dirt and dust upon such areas.

3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so, and the cost thereof will be charged to the Contractor by deductive Change Order.

Delete existing 3.17 in its entirety and replace with the following:

3.17 ROYALTIES, PATENTS AND COPYRIGHTS

3.17.1 The Contractor will pay all royalties and license fees. The Contractor will defend suits or claims for infringement of copyrights, intellectual property rights and patent rights and will hold the Owner and Architect harmless from loss on account thereof, but will not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. In the latter event, the Owner will indemnify and hold the Contractor harmless on account of any such loss or damage. However, if either party knows that the required design, process, or product is an infringement of a copyright, intellectual property rights or a patent, then that party will be responsible for such loss unless such information is promptly furnished to the other.

Delete existing 3.18 in its entirety and replace with the following:

3.18 INDEMNIFICATION

3.18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR WILL DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, ARCHITECT'S CONSULTANTS AND AGENTS AND EMPLOYEES OF ANY OF THEM FROM AND AGAINST SUITS, 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 OR PERSONAL INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, EXCEPT DAMAGE TO THE WORK ITSELF, INCLUDING LOSS OF USE RESULTING THEREFROM AND IS CAUSED IN WHOLE OR IN PART BY NEGLIGENT ACTS OR OMISSIONS OR ACTS OR OMISSIONS RESULTING IN THE LIABILITY 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 THE NEGLIGENCE OF A PARTY INDEMNIFIED HEREUNDER. THIS INDEMNITY WILL INCLUDE, BUT NOT BE LIMITED TO, ANY CLAIMS OR SUIT BROUGHT BY AN EMPLOYEE OR CONTRACTOR OR ANY OF CONTRACTOR'S SUBCONTRACTORS. THIS INDEMNITY OBLIGATION WILL NOT BE CONSTRUED TO NEGATE, ABRIDGE OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SUBSECTION 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.

3.18.3 The provisions of Section 3.18 will survive the termination of this Contract, howsoever caused, and no payment, partial payment, nor issuance of a certificate of Substantial Completion nor a certificate of final completion nor acceptance of occupancy in whole or in part of the Work will waive or release any of the provisions of Section 3.18.

3.18.4 The Owner will cause any other contractor who may have a contract with the Owner to perform construction or installation Work in the areas where Work will be performed under the Owner/Contractor Agreement, to agree to indemnify the Owner and Contractor and hold them harmless from all claims for bodily injury and property damage that may arise from that contractor's operations. Such provisions will be in a form satisfactory to the Contractor.

3.18.5 The obligations of the Contractor under this Section 3.18 will not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

Delete existing 4.2 in its entirety and replace with the following:

4.2 ADMINISTRATION OF THE CONTRACT

4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents (1) during construction, (2) until final payment is due and (3) with the Owner's

concurrence, from time to time during the one-year period for correction of Work described in Section 12.2, provided, however, Owner reserves the right to appoint one or more Representatives empowered to act for Owner during the Construction Phase and to supersede the Architect's Construction Phase responsibility to the extent set forth in the written notice to the Architect and Contractor. Architect will no longer bear responsibility with respect to those superseded responsibilities unless the Owner directs the Architect in a written notice to resume those superseded responsibilities. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

4.2.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations:

(a) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed;

(b) to endeavor to guard the Owner against defects and deficiencies in the Work; and,

(c) to determine in general if the Work 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. Architect will promptly inform Contractor and Owner of any non-compliance observed. The Architect will exercise care and diligence when on site in discovering and properly reporting to the Owner any defects and deficiencies in the Work of the Contractor or any of its Subcontractors, or their agents or employees, or any other person performing any of the work in the construction of the Project. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

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

4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

The Owner and the Contractor may communicate directly with each other, with copies of such communications delivered to the Architect. Communications by and with the Architect's consultants will be through the Architect. Communications by and with Subcontractors and material suppliers will be through the Contractor. Communications by and with separate

contractors will be through the Owner.

4.2.5 Based on the Architect's evaluations of the Work progress and quality of the Work and the Contractor's Applications for Payment, the Architect will make written recommendations as to the amounts due the Contractor and will issue Certificates for Payment in such amounts.

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

4.2.7 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect will carefully study and compare Shop Drawings and other information furnished by the Contractor with the Contract Documents and will at once report to the Contractor errors, inconsistencies or omissions discovered. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or separate contractors, 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 will not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review will not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item will not indicate approval of an assembly of which the item is a component. The Architect's action will be taken in accordance with the Contractor's approved construction schedule, so as to cause no delay in the Work or in the Owner's obligations.

4.2.8 The Architect will prepare Change Orders and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4. Any change affecting the Contract Sum or schedule must be approved by the Owner in writing prior to commencement.

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. IO; and issue a final Certificate for Payment pursuant to

Section 9.10.

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

4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor which will be copied to the other.

4.2.11.1 The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect will be furnished in compliance with this Section 4.2, then delay will not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

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 initial decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor and will not show partiality to either.

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, subject to the prior approval of the Owner and industry acceptable tolerances and standards.

4.2.14 The Architect's review of Shop Drawings, Product Data and Samples and on-site observation of the construction Work is to determine if the Contractor's submittals and Work appear to be in general conformance with the design concept set forth in the Contract Documents prepared by the Architect. It is understood that the Architect's review will not be considered to be complete in every detail or exhaustive and will also not relieve any Contractor, Subcontractor, manufacturer, supplier, fabricator, consultant or other third party from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract Documents or for the responsibility to coordinate the Work, or portion of the Work, of one trade with another.

Delete existing 5.1 in its entirety and replace with the following:

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 or to otherwise furnish labor or materials. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor. If the Standard Agreement between the parties utilizes the Construction Manager At Risk construction delivery method, then a Subcontractor is also a Trade 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 or otherwise furnish labor or materials. 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.

Delete 5.2.1 in its entirety and replace with the following:

5.2.1 Selection of subcontractors will be made in accordance with the terms of Chapter 271.118 of the Texas Local Government Code.

Delete existing 5.2.3.

Delete existing 5.3 in its entirety and replace with the following:

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By appropriate written agreement, the Contractor will require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement will 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 will 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 will require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor will 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. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

5.3.2 The Contractor will not enter into any subcontract, contract, agreement, purchase order or other arrangement ("Arrangement") for the furnishing of any portion of the materials, services, equipment or Work with any party or entity if such party or entity is an Affiliated Entity (as defined below), unless such Arrangement has been approved by the Owner, after full disclosure in writing by the Contractor to the Owner of such affiliation or relationship and all details relating to the proposed Arrangement. The term "Affiliated Entity" means any entity related or affiliated with the Contractor or with respect to which the Contractor has direct or indirect ownership or control, including, without limitation, any entity owned in whole or part by the Contractor; any holder of more than 10% of the issued and outstanding shares of, or the holder of any interest in the Contractor; any entity in which any director, officer, employee, partner or shareholder (or member of the family of any of the foregoing persons) of the Contractor or any entity owner by the Contractor has a direct or indirect interest, which interest includes, but is not limited to, that of a partner, employee, agent or shareholder.

5.3.3 Each such subcontract will:

(a) Require that such Work be performed in accordance with the requirements of the Contract Documents;

(b) Require the Subcontractor to carry and maintain liability insurance in accordance with the Contract Documents;

(c) Require the Subcontractor to furnish such reasonable certificates and waivers as the Owner may request;

(d) Require that any Subcontractor and any Sub-subcontractor waives any rights it may have against the Owner for damage cause by fire or other perils covered by property or risk insurance maintained by the Subcontractor (or Sub-subcontractor) in connection with the Project;

(e) Provide that all warranties provided to Contractor, including material warranties, are fully assignable to the Owner;

(f) Omitted by Agreement

(g) Require the Subcontractor to provide a certificate in writing that it provided workers compensation insurance coverage for each employee.

Delete 6.2.5 in its entirety and replace with the following:

6.2.5 The Owner and each separate contractor will have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14. If such separate contractor initiates legal or any other proceedings against the Owner on account of any damage alleged to have been caused by the Contractor, the Owner will notify the Contractor, who will defend such proceedings at its own expense, and if any judgment or award against the Owner arises therefrom, the Contractor will pay or satisfy it and will reimburse the Owner for all attorneys' fees and court or other costs which the Owner has incurred over and above those paid for directly by the Contractor.

Delete existing 7.1 in its entirety and replace with the following:

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 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 will 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 (provided that it does not affect the Contract Time or Contract Sum).

7.1.3 When a cost or credit for a proposed change is requested from the Contractor, it will submit an itemized breakdown showing quantities and unit cost or credit on each item which is contained in the proposed change including profit and overhead.

7.1.4 A field directive or field order does not have an impact on the Contract Sum or the Contract Time unless the Contractor submits a change order within 15 working days after the date of the directive or order.

7.1.5 When submitting its change proposal, the Contractor will include and set forth in clear and precise detail, breakdowns of labor and materials for all trades involved and the estimated impact on the Progress Schedule. The Contractor will furnish spreadsheets from which the breakdowns were prepared, plus spreadsheets, if requested by Owner, from any subcontractor.

Add the following as 7.2.2 and 7.2.3:

7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3.

7.2.3 It is understood and agreed that refinement and detailing will be accomplished from time to time with respect to the Drawings and Specifications contained in the Contract Documents. No adjustment in the Contract Sum or the Scheduled Completion Date will be made unless such refinement or detailing results in changes in the scope, quality, function or intent of the Drawings and Specifications. The delivery of supplemental or revised drawings to the Contractor by either the Architect or the Owner's Representative will not be interpreted by the Contractor as fulfilling their requirements of the Article for a written order to proceed with the Work. The written order (signed by the Owner) must be in addition to such drawings.

Delete existing 7.3 in its entirety:

7.3 CONSTRUCTION CHANGE DIRECTIVES

Intentionally deleted.

Delete existing 7.4 in its entirety and replace with the following:

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.

Delete existing 8.3 in its entirety and replace with the following:

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by fire, weather conditions not reasonably anticipatable, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending mediation ("Delay"), then the Contract Time will be extended by Change Order for such reasonable time as the Architect and Owner may determine. Any such extension of Contract Time will be net of any delays caused by or due to the fault or negligence of the Contractor or which are otherwise the responsibility of the Contractor (including the financial condition of the Contractor or any of its Subcontractors).

8.3.2 Claims relating to time will be made in accordance with applicable provisions of Section 15.3 or they will be deemed waived.

8.3.3 Except as provided in this Section, the Contractor will not be entitled to any other compensation or recovery of any damages of any kind due to a Delay, including, without limitation, consequential damages, lost opportunity costs, impact damages or other similar remuneration. The Contractor may receive an adjustment in the Contract Sum if any delays, either individually or taken in the aggregate, cause the Contract Time to be increased by more than 30 days (the "Grace Period"). Any adjustment in the Contract Sum is limited to the increase of direct costs incurred by the Contractor in performing the Work as a result of that portion of any Delay or Delays which cause the Contract Time to be increased beyond the Grace Period. Direct costs include general conditions items and direct on-site supervision.

8.3.4 In the event of inexcusable delay by Contractor, Owner may direct that the Work be accelerated by means of overtime, additional crews of additional shifts or resequencing of the Work. All such acceleration costs will be within the GMP.

Delete existing 9.1 in its entirety and replace with the following:

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. Wherever the term "Contract Sum" appears throughout the Contract Documents it will be deemed to mean "Guaranteed Maximum Price".

9.1.2 Notwithstanding anything to the contrary contained in the Contract Documents, the Owner may withhold any payment to the Contractor hereunder if and for so long as the Contractor fails to perform any of its obligations hereunder or otherwise is in default under any of the Contract Documents; provided, however, that any such holdback will be limited to an amount sufficient in the reasonable opinion of the Owner to cure any such default or failure of performance by the Contractor.

Delete existing 9.3.1.1 in its entirety:

9.3.1.1 Intentionally Omitted.

Delete existing 9.4.1 in its entirety and replace with the following:

9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect recommends as properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1. Failure of the Architect to comply with this time frame will not relieve the Owner of their obligation to pay the Contractor within the time required in Section of the Contract Agreement.

Delete existing 9.5 in its entirety and replace with the following:

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 or Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's or Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of:

(.1) defective Work not remedied;

(.2) third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;

(.3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;

(.4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

(.5) damage to the Owner or another contractor;

(.6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

(.7) failure to carry out the Work in accordance with the Contract Documents; or

(.8) failure to provide any submittals or documentation required under the Contract Documents in a timely manner, including a schedule of values and a construction

schedule.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld. The Owner will not be deemed to be in breach of the Contract documents by reason of the withholding of any payment which Owner is entitled to withhold pursuant to or withholds in good faith in reliance on any provision of the Contract Documents, and no interest will accrue in connection with the withheld payment(s).

Delete existing 9.6.4 and add the following:

9.6.4 Neither the Owner nor Architect will have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

Delete existing 9.7 in its entirety and replace as follows:

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 thirty (30) days after the date established in the Contract Documents the amount certified by the Architect or awarded by mediation, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

Delete existing 9.8.1 in its entirety and replace with the following:

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. The Work will be considered suitable for Substantial Completion review when all required governmental inspections and certifications have been made and posted, all final finishes within the Contract Documents are in place as required by the Specifications, and there will have been a completion of and acceptance by Owner of all critical punch-list items so that the Owner could occupy or otherwise utilize the project on that date and the completion of the Work by the Contractor would not materially interfere or hamper the Owner’s (or those claiming by, through or under the Owner) normal business operations. As a further condition of Substantial Completion acceptance, the Contractor will certify that all remaining Work will be completed within, thirty (60) consecutive calendar days following the date of Substantial Completion.

Delete existing 9.10.3 in its entirety and replace with the following:

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, will upon application by the Contractor and recommendation by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted, less any retainage. If the

remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted will be submitted by the Contractor to the Architect prior to certification of such payment. Such payment will be made under terms and conditions governing final payment, except that it will not constitute a waiver of claims.

Delete existing 9.10.5 in its entirety and replace with the following:

9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier will 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. Final payment is considered to have taken place when Contractor or any of its representatives negotiates Owner's final payment check, whether labeled final or not, for cash or deposits the check in any financial institution.

Delete existing 10.1 in its entirety and replace with the following:

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. Contractor will be responsible for providing such security on the Work site as necessary to protect against loss or damage to materials or the Work.

Delete existing 10.2.5 in its entirety and replace with the following:

10.2.5 The Contractor will promptly remedy damage and loss (provided that Contractor may fulfill this obligation through prompt action taken by the Contractor's insurance company under property insurance covering said loss) to property referred to in Clauses 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 Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

Add the following as 10.2.9:

10.2.9 The performance of the foregoing services by the Contractor will not relieve the Subcontractors of their responsibilities for the safety of persons and property and for compliance with all Federal, State and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work.

Delete existing 10.3.3 in its entirety and replace with the following:

10.3.3 To the fullest extent permitted by law, the Owner will 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) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

Delete existing 10.3.6 in its entirety and replace with the following:

10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable 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 will indemnify the Contractor for all cost and expense thereby incurred.

Delete existing 11.1 in its entirety and replace with the following:

11.1 CONTRACTOR'S LIABILITY INSURANCE

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

(.1) Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;

(.2) Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;

(.3) Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

(.4) Claims for damages insured by usual personal injury liability coverage;

(.5) Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

(.6) Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;

(.7) Claims for bodily injury or property damage arising out of completed operations; and

(.8) Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

11.1.2 The insurance required by Section 11.1.1 will be written for not less than limits of liability specified in Section 9.2.3 of the Agreement or required by law, as applicable. Coverages, whether written on an occurrence or claims-made basis, will be maintained without interruption from the date of commencement of the Work until the date of final payment and thereafter as required in this Contract.

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

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

11.1.5 In the event the Owner elects to provide insurance coverage for the Contractor and/or its Subcontractors and Sub-subcontractors via a wrap-up insurance program or otherwise, and the Owner's insurance program does not afford the same coverage as stated hereinabove, the Contractor may purchase a difference in conditions policy the premium of which shall be reimbursed to the Contractor as a Cost of Work of the Project.

Delete existing 11.2 in its entirety and replace with the following:

11.2 OWNER'S LIABILITY INSURANCE

11.2.1 Owner will cause, other than the Architect, any contractor, construction manager, subcontractor, or others working on any of their behalf who are not hired by Contractor or its subcontractors, but who provide work or services (or who work in or around the such project site) for the Project, to: (a) name Contractor, its directors, officers, employees, affiliates (collectively "Additional Insureds") as additional insureds on a primary, non-contributory basis on all liability policies applicable to any such work or services that they perform, except for any workers compensation and professional liability policies. The additional insured coverage provided to the Additional Insureds on any commercial general liability policy will include coverage for any actual or alleged bodily injury, property damage or personal and advertising injury liability whether arising out of premises-operations or products-completed operations. The additional insured coverage required in this Section will apply before commencement of any work or services are performed and after the final completion of such project until the later of the

statute of limitations or statute of repose for the types of claims covered by the policy to which the additional insured coverage applies and (b) waive any right of recovery, where permitted by law, against the Additional Insureds for damages to the extent covered by any insurance policy applicable to any such work or services, including but not limited to any general liability, business automobile, excess liability, builder's risk and installation floater policies. Where a policy does not provide an automatic waiver, then the waiver shall be evidenced by a waiver of subrogation endorsement issued in the Additional Insureds' names.

Delete existing 11.3 in its entirety and replace with the following:

11.3 PROPERTY INSURANCE

11.3.1 The Contractor will purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis . Such property insurance will be maintained until Substantial Completion, as defined in the Contract Documents. This insurance will include the Contractor as the named insured and the interests of the Owner, Subcontractors and Sub-subcontractors in the Project.

11.3.1.1 Property insurance will be on an "all-risk" or equivalent policy form and will include insurance against the perils of fire and physical loss or damage including vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and will cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss. These coverages may include a sublimit of insurance.

11.3.1.2 Intentionally left blank.

11.3.1.3 If the property insurance requires deductibles, the Contractor will be responsible as a cost of the work for the first $10,000 of costs not covered because of such deductibles, and Owner will be responsible for any cost of deductibles greater than $10,000, not to exceed $25,000.

11.3.1.4 This property insurance will cover portions of the Work stored off the site, and also portions of the Work in transit. These coverages may include a sublimit of insurance.

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

11.3.2 BOILER AND MACHINERY INSURANCE

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

11.3.3 LOSS OF USE INSURANCE

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

11.3.4 Intentionally left blank.

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

11.3.6 Upon Owner's request, the Contractor will file with the Owner a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy will contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy will contain a provision that the policy will not be canceled until at least 30 days' prior written notice has been given to the Owner.

11.3.7 WAIVERS OF SUBROGATION

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

11.3.8 A loss insured under the Contractor's property insurance shall be adjusted by the Owner

as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear.

11.3.9 Intentionally left blank.

11.3.10 The Owner as fiduciary will have power to adjust and settle a loss with insurers.

Delete existing 11.4.1 in its entirety and replace with the following:

11.4.1 The Owner requires the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in the Contract Documents.

Delete existing 12.1 in its entirety and replace with the following:

12.1 UNCOVERING OF WORK

12.1.1 If a portion of the Work is covered without written concurrence of Owner or Architect, contrary to the Architect's or Owner's written request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect or Owner, be uncovered for the Architect's or Owner's examination and be replaced without change in the Contract Time. The Contractor's cost of replacement will be within the GMP established.

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

Delete existing 12.2 in its entirety and replace with the following:

12.2 CORRECTION OF WORK

12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

12.2.1.1 The Contractor will promptly correct Work rejected by the Architect or Owner or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby, and repair or replacement of any work which may be displaced or damaged by Contractor's correction will 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 entire Work or after the date for commencement of

warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor will correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner will give such notice promptly after discovery of the condition. If the Owner fails to so notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4. Owner's making of a claim for repair or replacement of any item of Work will toll the running of the Warranty Period with respect to the item that is the subject of that claim and the warranty set forth in this Section 12.2.2 will remain in effect as to that item until Contractor repairs or replaces the defective item of work even though the warranty period would otherwise have expired.

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

12.2.3 The Contractor will remove from the site portions of the Work which 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 will correct destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is defective or otherwise not in accordance with the requirements of the Contract Documents.

12.2.5 Nothing contained in this Section 12.2 will be construed to establish a period of limitation with respect to other obligations which the Contractor might have 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. The corrective remedies set forth in this Section 12.2 are not exclusive and will not deprive the Owner of any action, right or remedy otherwise available to it for breach of any of the provisions of the Contract Documents.

Delete existing 12.3 in its entirety and replace with the following:

12.3 ACCEPTANCE OF NONCONFORMING WORK

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, and the Contractor agrees, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as agreed to by the Owner and Contractor. Such adjustment will be affected whether or not final payment has been

made. Contractor will pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work as well as the amount by which the value of the Work is diminished by the defect. If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents and compensating Owner for the costs described above and the diminished value of the defective Work. If acceptance occurs after final payment, Contractor will pay to Owner the appropriate amount.

Delete existing 13.1 in its entirety and replace with the following:

13.1 GOVERNING LAW

13.1.1 The Contract will be governed by the law of Texas and venue for causes of action concerning the Contract will be in the district courts of Tarrant County.

Delete existing 13.3 in its entirety and replace with the following:

13.3 All notices to be given hereunder will be in writing, and all payments to be made hereunder will be by check, and may be given, served or made by depositing the same in the United States mail addressed to the party to be notified, postpaid and registered or certified with return receipt requested, or by delivering the same via fax/telecopy, overnight delivery service, or in person to such party. Notice deposited in the mail will be deemed delivered from and after the fourth day following the date deposited in the mail. Notice given in any other manner will be effective only if and received by the party to be notified. All notices to be given to the parties of will be sent or made at the addresses heretofore set forth. By giving the other party at least fifteen (15) days written notice thereof, the parties hereto will have the right to change their respective addresses and specify as its address for the purposes hereof any other address in the United States of America.

Delete existing 13.5.1 in its entirety and replace with the following:

13.5.1 Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of public authorities having, jurisdiction will be made at an appropriate time. Unless otherwise provided, the Contractor will 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, the cost of which will be reimbursable to the Contractor as a Cost of the Work. If requested by Owner, Contractor will coordinate with testing laboratory to provide adequate time and notice for the testing laboratory to perform testing in accordance with the requirements of the Work. No inspection performed or failed to be performed by Owner hereunder will be a waiver of any of Contractor's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof. The Contractor will 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 will bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

Add the following as 13.5.7 and 13.5.8:

13.5.7 If a proposed substitution requires investigation, testing or approval to determine its suitability for incorporation into the Work, the testing of the proposed substitution will be as determined by the Architect. The cost of such investigations or tests will be reimbursable to the Contractor as a Cost of the Work.

13.5.8 If Work installed is found not in compliance with the Contract Documents, investigation, testing and subsequent re-testing of the Work arising out of such deficiencies and defects will be performed by the Contractor. The type and nature of the inspections and tests will be as reasonably determined by the Architect. The cost of such investigations, testing and re-testing as well as any corrective work required will be reimbursable to the Contractor as a Cost of the Work if within the GMP.

Delete existing 13.6 in its entirety and replace with the following:

13.6.1 Except as provided in the Contract Documents, undisputed payments due and unpaid under the Contract Documents due to a default by Owner in its obligations under the Contract will bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located and applicable to Owner.

Add the following as 13.8 and 13.9:

13.8 SIGNAGE

13.8.1 All construction signage, other than for the Construction Manager, including, but not limited to, that appearing on tower cranes and other construction equipment located at the Project site, will be subject to the prior written approval of Owner. The Contractor recognizes that all signage may be disallowed, in Owner's sole discretion and that existing signage or advertising on construction equipment, field offices, trailers, construction fences, etc., may be required to be masked or deleted, all or not cost or expense to Owner.

13.8.2 The Contractor will treat all information relating to the Project and all information supplied to the Contractor by Owner or Architect as confidential and proprietary information of Owner and will not permit its release to other parties or make any public announcement or publicity releases without Owner's written authorization unless required to do so by applicable law, other than information that is public knowledge. The Contractor will also require Subcontractors and vendors to comply with this requirement.

13.9 CONTRACTOR'S RECORDS

13.9.1 The Contractor will keep and maintain such full and detailed accounts as may be necessary for proper financial management under this Agreement and the Contractor's system will be satisfactory to Owner. Owner will be afforded access to all the Contractor's records, books, correspondence, instructions, drawings, calculations, contracts, subcontracts, purchase orders, receipts, memoranda, daily journals, computer discs and tapes and similar data relating to this Agreement with the right to audit same, other than Contractor's proprietary systems. The Contractor will preserve all such records for a period of not less than three (3) years after the final payment is made hereunder or any longer period required by Owner. Owner's audit rights

in this Section will be applicable only to verification of prevailing wages on all subcontractors employed by the Contractor and the Contractor will be responsible for ensuring that subcontractors maintain such records, allow such access, and will include a provision to this in each subcontract with its subcontractors for the verification of prevailing wages.

Delete existing 14.1.1 in its entirety and replace with the following:

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

(.1) issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;

(.2) an act of government, such as a declaration of national emergency which 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 required by the Contract Documents, subject to any right of Owner to withhold funds or suspend payment under the Contract; or,

Delete existing 14.1.3 in its entirety and replace with the following:

14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven (7) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead earned and profit earned

Delete 14.2.1 and replace with the following:

14.2.1 The Owner may terminate the Contract or terminate Contractor's rights to perform under the Contract if the Contractor:

(.1) refuses or fails to supply sufficient skilled workers or suitable materials or equipment to complete the Work in a diligent, efficient, workmanlike or timely manner;

(.2) fails to make prompt payment to Subcontractors for materials, equipment, or labor in accordance with the respective agreements between the Contractor and the Subcontractors. Other than disputes between the Contractor and Subcontractor;

(.3) disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or,

(.4) disregards the instructions of the Architect or the Owner (when such instructions are based on the requirements of the Contract Documents);

(.5) fails to perform the Work in accordance with the Contract Documents or makes fraudulent statements;

(.6) makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts generally as they become due, files a petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for any receiver or any trustee for the Contractor or any substantial part of its property, commences any action relating to the Contractor under any reorganization, arrangement, readjustment or debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against the Contactor any such action or the Contractor by any act indicates its consent to or approval of any trustee for the Contractor or any substantial part of its property or suffers any receivership or trustee to continue undischarged; or

(.7) otherwise, does not fully comply with the Contract Documents.

Delete existing 14.2.2 in its entirety and replace with the following:

14.2.2 When any of the above reasons exist, the Owner, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety seven (7) days' written notice, terminate employment of the Contractor and may:

(.1) take possession of the site and the Project and of all materials, equipment, tools, and construction equipment and machinery thereon owned, rented and leased and utilized solely for the Work or the Project (with consent of lessor) by the Contractor; and/or

(.2) accept assignment of subcontracts pursuant to Section 5.4; and/or,

(.3) finish the Work by whatever reasonable method the Owner may deem expedient including demand on the surety. Upon request of the Contractor, the Owner will furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work, unless the Work was performed by the surety.

Delete existing 14.2.4 in its entirety and replace with the following:

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 will be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor will pay the difference to the Owner. The obligation to pay the amount to the Contractor or Owner will survive termination of the Contract.

Add the following as 14.2.5 and 14.2.6.

14.2.5 It is recognized that (i) if any order for relief is entered on behalf of or against the Contractor pursuant to Title 11 of the United States Code, (ii) if any other similar order is entered under any other debtor relief laws, (iii) if the Contractor makes a general assignment for the benefit of its creditors, or (iv) if a receiver is appointed for the benefit of creditors, or (v) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate the Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon the occurrence of any such event, the Owner, in addition to other rights and remedies hereunder, will be entitled to request of the Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such request within ten (10) days of delivery of the request will entitle the Owner to terminate the Contract Documents or Contractor's right to perform thereunder and to the accompanying rights set forth above in Sections 14.2.1 through 14.2.4 hereof. In all events, pending receipt of adequate assurance of performance and actual performance in accordance therewith, the Owner will be entitled to make demand on the surety or proceed with the Work with its own forces or with other contractors on a time and material or other appropriate basis, the cost of which will be back charged against the Contract Sum. To the extent the costs of completing the Work, including compensation for additional professional services and expenses, exceed those costs which would have been payable to the Contractor to complete the Work except for the Contractor's default, the Contractor will pay the difference to the Owner, subject to any rights of the surety, if the surety perform Contractor's obligations, and this be determined by the Owner and confirmed by the Architect.

14.2.6 Owner may, if Contractor neglects to prosecute the Work properly or to perform any provision of the Contract Documents, or otherwise does, or omits to do, anything whereby safety or proper construction may be endangered or whereby damage or injury may result to person or property, after three (3) days written notice to Contractor, without prejudice to any other remedy Owner may have, make all work, material, omissions or deficiencies, and may deduct the cost therefore from the amount included in the Contract Sum due or which may thereafter become due Contractor, but no action taken by Owner hereunder will affect any of the other rights or remedies of Owner granted by this Agreement or by law or relieve Contractor from any consequences or liabilities arising from such acts or omissions.

Delete existing 14.4.3 in its entirety and replace with the following:

14.4.3 In case of such termination for the Owner's convenience, the Contractor will be entitled to receive payment for Work executed, and costs incurred by reason of such termination, including the portion of Contractor's Fee applicable to the Work performed, but Owner will not be responsible for the payment of any portion of the Contractor's unearned Fee.

Delete existing Article 15 in its entirety and replace with the following:

ARTICLE 15 CLAIMS AND DISPUTES

15.1 CLAIMS AND DISPUTES

15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment

or interpretation of Contract terms, payment of money, extension of 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. Claims must be initiated by written notice. The responsibility to substantiate Claims will rest with the party making the Claim.

15.1.2 TIME LIMITS ON CLAIMS

Contractor must notify Owner and Architect in writing (a) within twenty-one (21) days after the occurrence of the event giving rise to a Claim or (b) within twenty-one (21) days after the Contractor first recognized the condition giving rise to a Claim, whichever is later. Within twenty (20) days of submitting a Claim, Contractor must provide complete and detailed documentation concerning the nature and amount of the Claim, to the extent such information is reasonably available. Failure to comply with the requirements of this Section 15.3.2 constitutes a waiver of Contractor’s Claim.

15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor will proceed diligently with performance of the Contract and the Owner will continue to make payments in accordance with the Contract Documents.

15.1.4 CLAIMS FOR CONCEALED OR UNKNOWN CONDITIONS

If conditions are encountered at the site which are:

(a) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents; or,

(b) unknown physical conditions of an unusual nature, which 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, then notice by the observing party will be given to the other party promptly before conditions are disturbed and in no event later than twenty-one (21) days after first observance of the conditions.

The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor’s cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect will so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within twenty-one (21) days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time will be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment will be referred to the Architect for initial determination, subject to further proceedings pursuant to Section 15.4.

15.1.5 CLAIMS FOR ADDITIONAL COST

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

15.1.6 The following reasons may give rise to a Contractor filing a Claim in accordance with Section15.3, if the reasons result in additional cost to the Contractor:

(a) A written interpretation from the Architect;

(b) An order by the Owner to stop the Work where the Contractor was not at fault;

(c) A written order for a minor change in the Work issued by the Architect;

(d) Failure of payment by the Owner;

(e) Termination of the Contract by the Owner;

(f) Suspension of the Contract by Owner; or

(g) Other reasonable grounds,

15.1.7 CLAIMS FOR ADDITIONAL TIME

15.1.7.1 If the Contractor wishes to make Claim for an increase in the Contract Time, Contractor must provide written notice of the Claim to the Owner. The Contractor's Claim will 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.

15.1.7.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim will be documented by data substantiating that weather conditions were abnormal for the period of time and had an adverse effect on the scheduled construction. Data substantiating normal weather conditions or actual weather conditions will be furnished by the National Weather Service or the National Oceanic & Atmospheric Administration (N.O.A.A.) only. Contractor will submit to Owner written request for delays due to adverse weather conditions within 10 days of the end of the month in which the delays occurred. Substantiating data from the National Weather Service or N.O.A.A. will be furnished by the Contractor upon request by the Owner at its earliest availability. Inclement weather that occurs between commencement of construction and substantial completion will constitute delay only to the extent that days lost during a particular month due to such inclement weather exceeds the average lost time (in workdays) for the months indicated in Section 6.2.3 of the contract agreement.

15.1.7.3 Non-availability or shortages of labor, local strikes and lockouts will not constitute a claim for increase in the Contract Time or Contract Sum.

15.1.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

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

15.1.9 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices will be equitably adjusted.

15.1.10 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:

(a) damages incurred by the Owner 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,

(b) 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 15.3.10 will be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

15.2 RESOLUTION OF CLAIMS AND DISPUTES

15.2.1 Claims will be referred initially to the Architect for review and recommendation which the Architect will render in writing within 30 days after receipt from the Contractor or the claim will be deemed rejected by the Architect.

15.2.2 The Architect will approve or reject Claims by written decision, which will state the reasons therefore and which will notify the parties of any change in the Contract Sum or Contract Time or both. The approval or rejection of a Claim by the Architect will be final and binding on the parties unless either party pursues mediation as described in Section 15.5.

15.2.3 In evaluating Claims, the Architect may, but will not be obligated to, consult with, or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in rendering a decision. The Architect may request the Owner to authorize retention of such persons at the Owner's expense. Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or 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 Architect or the Owner may, but is not obligated to, notify the surety, and request the surety's assistance in resolving the controversy.

15.4.8 If a Claim relates to or is the subject of a mechanic's lien or is a claim on a bond the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim by the Architect, or by mediation.

15.3 MEDIATION

15.3.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Sections 15..3.10, 9.10.4 and 9.10.5 will, after initial decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation as a condition precedent to further proceedings, if any, other than injunctive relief.

15.3.2 The parties will endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, will be in accordance with Subchapter C of Chapter 154, Texas Civil Practice and Remedies Code. Request for mediation will be filed in writing with the other party to the Contract. Mediation will proceed in advance of further proceedings other than injunctive relief, which will be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

15.3.3 The parties will share the mediator's fee and any filing fees equally. The mediation will be held in the Fort Worth, Tarrant County, Texas. Agreements reached in mediation will be enforceable as settlement agreements in any court having jurisdiction thereof.

Add the following as Article 16:

16.1 ARTICLE 16 EQUAL OPPORTUNITY The Contractor and its Trade Contractors will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, religion, color, sex, or national origin. Contractor will post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

16.2 The Contractor and all Trade Contractors will, in all solicitations or advertisements for employees by them, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.