

BERKELEY COUNTY HEALTH DEPARTMENT ADDITION AND ALTERATIONS

VOLUME 1 DIVISIONS 0 and 1 PROJECT MANUAL

CRA PROJECT NO. 3702

April 5, 2024



Crabtree, Rohrbaugh & Associates - Architects
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Mechanicsburg, PA • Baltimore, MD • White Sulphur Springs, WV

VOLUME 1

PROJECT MANUAL

FOR

BERKELEY COUNTY

HEALTH DEPARTMENT ADDITION AND ALTERATIONS

FOR THE

Berkeley County
400 W. Stephen Street
Martinsburg, WV 25401



CRABTREE, ROHRBAUGH & ASSOCIATES
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ARCHITECT'S PROJECT NO. 3702

VOLUME 2

TECHNICAL SPECIFICATIONS

FOR

**BERKELEY COUNTY
HEALTH DEPARTMENT ADDITION AND ALTERATIONS**

FOR THE

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VOLUME 3

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**COUNTY COUNCIL of BERKELEY
COUNTY, WEST VIRGINIA**

**Request for Proposal (RFP)
For**

**Health Department – Addition and Alterations
122 Waverly Court, Martinsburg, WV**

April 2024

REQUEST FOR PROPOSAL

The County Council of Berkeley County, West Virginia (herein referred to as the “County Council” or “Council”) is requesting Price Proposals from interested parties for the Health Department – Addition and Alterations located at 122 Waverly Court, Martinsburg, WV 25403.

The County Council (or its designated representatives) will be evaluating submissions to this request and will ultimately select a firm judged to be both responsible and responsive to the request in every way, including having offered the most beneficial, appropriate price proposals. The County Council reserves the right to interview some or all prospective firms to discuss Qualifications & Price Proposals. The format for submittals, information regarding the scope of work, and selection criteria used by the County Council is available from the County Council Office, 400 W. Stephen Street, Suite 201, Martinsburg, WV 25401, or by telephone at 304-264-1923. Inquiries should be directed to Tracie McCormick, Procurement Coordinator, 304-264-1923 ext. 8123.

Bidding document questions shall be directed to Crabtree, Rohrbaugh & Associates, Attention: Bidding Department, phone number (717) 458-0272; FAX (717) 458-0047; email: bidding@cra-architects.com. All questions pertaining to the Contract Documents, technical sections, legal documents, and bid submission shall be directed in writing to: Joshua Bower, Project Manager, phone number (434) 975-7262; email: jbower@cra-architects.com

A Pre-Bid Conference will be held on April 18, 2024 at 10:00 AM, prevailing time, at the project location 122 Waverly Court, Martinsburg, WV 25403.

One (1) copy of submittals of Qualification & Price information from interested businesses should be enclosed in a sealed opaque envelope marked “**Health Department – Addition and Alterations**”. Proposals must be submitted and time-stamped into the County Council Office, 400 W. Stephen Street, Suite 201 Martinsburg, WV, 25401 **4:00pm April 30, 2022**. Failure to provide the required information as requested in the RFP for Berkeley County’s review may result in disqualification.

Proposals will be opened and entered into public record at 10:00am on Thursday May 2, 2024 in the County Council Meeting Room, 400 W. Stephen Street, Room 205, Martinsburg, WV, 25401.

Berkeley County shall make positive efforts to utilize Disadvantaged Business Enterprises for its supplies and services and shall allow these sources the maximum feasible opportunity to compete for contracts. Berkeley County does not discriminate on the basis of race, color, national origin, sex, religion, age or disability for the provision of services.

Berkeley County reserves the right to accept or reject any or all proposals, to waive technicalities, and to take whatever action is in the best interest of the Berkeley County Council.

I. INTRODUCTION:

Proposals are being requested from qualified companies to submit bids for the Health Department – Addition and Alterations located at 122 Waverly Court, Martinsburg, WV, as ordered by the County Council of Berkeley County, West Virginia, (hereinafter referred to as “County Council” or “Council”). Only written responses to this RFP shall be considered. All materials submitted shall become part of the proposal.

II. BACKGROUND:

Berkeley County is located in the eastern panhandle of West Virginia. According to 2010 Census information, Berkeley County has a population of 104,169 making it the second-most populous county in West Virginia, behind Kanawha. Martinsburg is the County Seat.

The county lies adjacent to the Washington-Baltimore Metropolitan area and is one of three counties in the Hagerstown-Martinsburg, MD-WV Metropolitan Statistical Area.

Partly because of its proximity to Washington, D.C., Berkeley County is the fastest growing county in the State of West Virginia and among the fastest growing in the entire country.

Berkeley County is currently governed by a five (5) member County Council.

III. SCOPE OF WORK

A. GENERAL

The County Council is requesting bids for the Health Department – Addition and Alterations located at 122 Waverly Court, Martinsburg WV

B. DIGITAL COPIES OF DRAWINGS AND SPECIFICATIONS

Bidding document questions shall be directed to Crabtree, Rohrbaugh & Associates, Attention: Bidding Department, phone number (717) 458-0272; FAX (717) 458-0047; email: bidding@cra-architects.com. All questions pertaining to the Contract Documents, technical sections, legal documents, and bid submission shall be directed in writing to: Kevin Whitney, Project Manager, phone number (434) 975-7262; email: kwhitney@cra-architects.com.

1. GUIDELINES AND REQUIREMENTS

- a. Berkeley County is a tax exempt organization. Tax number 55-6000296.
- b. This project is NOT subject to Prevailing Wage.

IV. Q&E / TECHNICAL PROPOSAL:

Respondent shall respond to and reference each section and subsection for portion(s) of RFP proposal. ***At a minimum, your Qualifications Proposal shall include the following information. Failure to discuss each item may deem the submittal non-responsive and may result in non-consideration of respondent's services.***

A. Firm Information

1. Name, address, telephone number, fax number of firm and parent company, if any, from which the acquisition and delivery of furnishings will be managed.
2. Nature of firm and parent company, if any.

B. Miscellaneous Requirements:

1. All technical proposals should include any conclusions, remarks and/or supplemental information that is pertinent to this request. Submitters are also required to provide written information regarding their inability to conform to any of the technical requirements listed above. Failure to do so will result in disqualification of proposal.

V. PRICE PROPOSAL:

A. At a minimum, your Price Proposal shall include the following:

1. One (1) Price Proposal – Attachment A.
2. One (1) Non-Collusion Certificate – Attachment B
3. One (1) Bid Security
4. One (1) Non-Discrimination Affidavit
5. One (1) Contractor's Qualification Statement, AIA Document A305
6. Any conclusions, remarks and/or supplemental information pertinent to this request.

B. Price proposals must be non-expiring.

VI. TERM OF CONTRACT:

A. The contract will commence upon award by the County Council.

B. If the Firm and/or Company awarded the bid subsequently fails to comply with the specifications, it will be given thirty (30) calendar days' notice to render satisfactory service. If at the expiration of such thirty (30) calendar days' notice, the unsatisfactory conditions have not been corrected, the County Council reserves the right to terminate the contract.

VII. USE OF EXISTING DOCUMENTS:

Berkeley County will cooperate to the fullest extent by making available to the Firm/Company all documents pertinent to this service that may be in the County Council's possession. Berkeley County makes no warranty as to the accuracy of existing documents or will the County Council accepts any responsibility for errors and omissions that may arise from the Firm/Consultant having relied upon them.

VIII. COMPENSATION TO THE VENDOR:

Invoices must be submitted to:

Berkeley County Council
400 W. Stephen Street, Suite 201
Martinsburg, WV, 25401

Payment will be made within thirty (30) days of receipt and approval.

X. SELECTION PROCESS:

- A. This solicitation is issued pursuant to the implementation of Berkeley County's Purchasing Policy. Berkeley County shall not be liable for any costs not included in the proposal, not contracted for subsequently, or in regard to preparation of your proposal.
- B. A Selection Committee appointed by the County Council will evaluate responses to this request and select those firms judged to be most qualified.
- C. Since it is the County Council's desire to select the most qualified firm, the Selection Committee reserves the right to schedule oral presentations from those firms it deems most qualified, to take place within ten (10) business days following notification.

XI. PROPOSALS AND AWARD SCHEDULE:

- A. Proposals received prior to the deadline will be treated as confidential, until receipt of all Proposals and opening of the same. Proposals received after the deadline will not be considered in the evaluation process and will be returned unopened.
- B. It is expected that the contract award will be made within forty-five (45) calendar days after the opening of proposals. The contract will be awarded to the Company whose proposal, conforming to this request, will be the most advantageous to Berkeley County.
- C. Proposals must give the full name and address of the proposer and the person signing the proposal shall indicate his or her title and/or authority to bind the firm in a contract.
- D. Proposals may not be altered or amended after they are opened.
- E. The approval or disapproval of the Company's Proposal will be determined by its response to this request and on past performance. No assumptions should be made on the part of the Firm/Company as to this Committee's prior knowledge of their abilities.
- F. Berkeley County reserves the right to request clarification of information submitted and to request additional information of one or more applicants.

XII. TERMS AND CONDITIONS:

- A. The County Council reserves the right to reject any or all proposals or to award the contract to the next recommended Company if the successful Company fails to execute an agreement within ten (10) calendar days after being notified of the award of this proposal.

- B. Berkeley County reserves the right to request clarification of information submitted and to request additional information of one or more applicants.
- C. Any proposal may be withdrawn up until the date and time set within this RFP for the opening of the proposals. Any proposal not so withdrawn will constitute an irrevocable offer, for a period of ninety (90) calendar days, to sell to Berkeley County the services set forth above, in the manner and at the costs set forth.
- D. The selected Company shall be required to enter into a contract agreement with the County Council. Any agreement or contract resulting from the acceptance of the proposal shall be made on forms approved by the Berkeley County In-House Legal Director and shall contain, at a minimum, applicable provisions of this request for proposal. The County Council reserves the right to reject any agreement that does not conform to this request for proposal and any Berkeley County requirements for agreements or contracts.
- E. Selected Firm/Company shall not assign any interest in the contract and shall not transfer any interest in the same without prior written consent of the Berkeley County Council.
- F. No reports, information or data given to or prepared by the Firm/Company under this agreement shall be made available to any individual or organization by the Firm/Company without the prior written approval of the Berkeley County Council.
- G. Firms/Companies shall give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why such materials, upon request, should not be disclosed by the County Council under the West Virginia Freedom of Information Act.
- H. Berkeley County shall not be liable for any costs incurred by the Firm/Company in regard to preparation of its proposal.
- I. Berkeley County reserves the right to request interviews.
- J. The County Council reserves the right to reject any and/or all proposals, to waive technicalities, and to take whatever action is in the best interest of the County.
- K. Berkeley County reserves the right to not hold discussions after award of the contract.
- L. By submitting a proposal, the Firm/Company agrees that it is satisfied, as a result of its own investigations of the conditions set forth in this request, and that it fully understands the obligations set forth therein.
- M. The Firm/Company shall abide by and comply with the true intent of the RFP and its Scope of Work and shall not take advantage of any unintentional error, ambiguity or omission, but shall fully complete every part as contemplated by the true intent and meaning of the scope of services described herein. Clarifications may be requested and dealt with at the Pre-Proposal Conference.
- N. The Firm/Company hereby represents and warrants:
 - 1. That it is now, or will be by the time its Proposal is opened, qualified to do business in the State of West Virginia and that it will take such action as, from time to time

hereafter, may be necessary to remain so qualified;

2. That it is not in arrears with respect to the payment of any monies due and owing the State, or any department or agency thereof, including, but not limited to, the payment of taxes and employee benefits, and that it shall not fall into arrears during the term of the contract; that it shall comply with all federal, State, and local laws, ordinances, and legally enforceable rules and regulations applicable to its activities and obligations under the contract;
 3. That it shall procure, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under the contract;
 4. That the facts and matters set forth hereafter in the contract and made a part hereof are true and correct.
- O. In addition to any other remedy available to Berkeley County, breach of any of the services contracted herein shall, at the election of the County Council, be grounds for termination of the contract. Failure of the County Council to terminate the contract shall not be considered or construed as either a waiver of such breach or as a waiver of any rights or remedies granted or available to Berkeley County.
- P. HOLD HARMLESS/INDEMNIFICATION: If a contract is awarded, the successful Firm/Company will be required to indemnify and hold Berkeley County, its agents and/or employees harmless from and against all liability and expenses, including attorney's fees, howsoever arising or incurred, alleging damage to property or injury to, or death of, any person arising out of or attributable to the Firm's/Company's performance of the contract awarded. Any property or work to be provided by the Firm/Company under the contemplated contract will remain at the Firm's/Company's risk until written acceptance by the County Council; and the Firm/Company will replace, at Firm's/Company's expense, all such property or work damaged or destroyed by any cause whatsoever, prior to its acceptance by the County.
- Q. Termination for Convenience: Berkeley County may terminate this or any contract, in whole or in part, whenever the County Council determines that such termination is in the best interest of the County, without showing cause, upon giving 30 days written notice to the Firm/Company. Berkeley County shall pay all reasonable costs incurred by the Firm/Company up to the date of termination. However, in no event shall the Firm/Company be paid any amount that exceeds the price proposed for the work performed. The Firm/Company will not be reimbursed for any profits which may have been anticipated but which have not been earned up to the date of termination.
- Termination for Default: When the Firm/Company has not performed or has unsatisfactorily performed the contract, Berkeley County may terminate the contract for default. Upon termination for default, payment may be withheld at the discretion of the County Council. Failure on the part of a Firm/Company to fulfill the contractual obligations shall be considered just cause for termination of the contract. The Firm/Company will be paid for services satisfactorily rendered prior to termination less any excess costs incurred by Berkeley County in re-procuring and completing the work.
- R. The contractual obligation of Berkeley County under the contemplated contract is

contingent upon the availability of appropriated funds from which payment for this contract can be made.

- S. INTERPRETATION: The contract resulting from this proposal shall be construed under the laws of the State of West Virginia.

XIII. INTERPRETATIONS, DISCREPANCIES, OMISSIONS:

Should any Firm/Company find discrepancies in, or omissions from, the documents or be in doubt of their meaning, they should at once request in writing an interpretation from the Crabtree Rohrbaugh & Associates. All necessary interpretations will be issued to all Firms/Companies in the form of addenda to the specifications, and such addenda shall become part of the contract documents. Failure of any Firm/Company to receive any such addendum or interpretation shall not relieve such Firm/Consultant from any obligation under their proposal as submitted. Berkeley County will assume no responsibility for oral instructions or suggestions. **ORAL ANSWERS SHALL NOT BE BINDING ON BERKELEY COUNTY.** No requests received after **2:00 p.m. Tuesday, April 30, 2024** will be considered. Every interpretation made by Berkeley County will be made in the form of an addendum that, if issued, will be sent by Berkeley County to all interested parties.

LIST OF APPENDICES THAT ARE ATTACHED

Attachment A – Price Proposal

Attachment B – Non-Collusion Certificate.

ATTACHMENT A
PRICE PROPOSAL
INSTRUCTIONS

This sheet must be placed on the very top of your price proposal. The County Council will utilize this sheet for purposes of reading the proposal into the public record.

Berkeley County Council
400 West Stephen Street
Suite 201
Martinsburg, WV, 25401

Bid Title: **Health Department – Addition and Alterations**

Bid Due Date & Time: **Tuesday April 30, 2024 – 4:00pm**

Bid Opening Date & Time: **Thursday May 2, 2024 – 10:00am**

We have received and examined all documents related to the above referenced project. We hereby propose to furnish the required material, equipment and incidentals contained in this Request for Proposal (RFP).

Lump Sum Price for _____ contained in Request for Proposal including all addendums and attachments:

\$ _____

Vendor Name & Address: _____

By: _____
(Authorized Signature) (Date)

Title: _____.

**ATTACHMENT B
NON-COLLUSION CERTIFICATE**

I HEREBY CERTIFY I am the _____
(Title)
and the duly authorized representative of the firm of _____

_____ whose address is _____

AND THAT NEITHER I nor, to the best of my knowledge, information and belief, the above firm nor any of its other representatives I here represent have:

- (a) Agreed, conspired, connived or colluded to produce a deceptive show of competition in the compilation of the bid or offer being submitted herewith;
- (b) Not in any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the bid price or price proposal of the bidder or offeror herein or any competitor, or competitive bidding in connection with the Contract for which the within bid or offer is submitted; and that no member of the County Council of Berkeley County, West Virginia, administrative or supervisory personnel or other employees of Berkeley County have any interest in the bidding company except as follows: (complete if applicable)

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Date

Signature

Printed or Typed Name

COPYRIGHT

All reports, construction documents, and computer files relating to this project are the property of Crabtree, Rohrbaugh & Associates. Crabtree, Rohrbaugh & Associates retains all common law, statute and other reserved rights including the copyright thereto.

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AIA[®] Document A701[™] – 2018

Instructions to Bidders

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

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

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

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ADDITIONS AND DELETIONS:

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

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

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

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

ARTICLE 1 DEFINITIONS

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

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

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

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

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

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

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

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

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

ARTICLE 2 BIDDER'S REPRESENTATIONS

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

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

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 Distribution

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

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

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

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

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

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

§ 3.2 Modification or Interpretation of Bidding Documents

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

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

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

§ 3.3 Substitutions

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

§ 3.3.2 Substitution Process

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

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

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

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

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

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

§ 3.4 Addenda

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

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

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

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

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

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 Preparation of Bids

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

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

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

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

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

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

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

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

§ 4.2 Bid Security

§ 4.2.1 Each Bid shall be accompanied by the following bid security:

(Insert the form and amount of bid security.)

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

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

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

§ 4.3 Submission of Bids

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

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

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

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

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

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

§ 4.4 Modification or Withdrawal of Bid

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

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

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

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

ARTICLE 5 CONSIDERATION OF BIDS

§ 5.1 Opening of Bids

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

§ 5.2 Rejection of Bids

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

§ 5.3 Acceptance of Bid (Award)

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

§ 5.3.2 Unless otherwise prohibited by law, the Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the lowest responsive and responsible Bidder on the basis of the sum of the Base Bid and Alternates accepted.

ARTICLE 6 POST-BID INFORMATION

§ 6.1 Contractor's Qualification Statement

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

§ 6.2 Owner's Financial Capability

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

§ 6.3 Submittals

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

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the principal products and systems proposed for the Work and the manufacturers and suppliers of each; and
- .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

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

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

§ 6.3.4 Persons and entities proposed by the Bidder and to whom the Owner and Architect have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner and Architect.

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

§ 7.1 Bond Requirements

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

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

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

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

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

§ 7.2 Time of Delivery and Form of Bonds

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

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

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

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

ARTICLE 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS

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

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

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

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

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

- .5 Drawings

- | Number | Title | Date | |
|--------|---|--------------|--------------------------|
| .6 | Specifications | | |
| | Section | Title | Date Pages |
| .7 | Addenda: | | |
| | Number | Date | Pages |
| .8 | Other Exhibits:
<i>(Check all boxes that apply and include appropriate information identifying the exhibit where required.)</i> | | |
| | <input type="checkbox"/> AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
<i>(Insert the date of the E204-2017.)</i> | | |
| | <input type="checkbox"/> The Sustainability Plan: | | |
| | Title | Date | Pages |
| | <input type="checkbox"/> Supplementary and other Conditions of the Contract: | | |
| | Document | Title | Date Pages |
| .9 | Other documents listed below:
<i>(List here any additional documents that are intended to form part of the Proposed Contract Documents.)</i> | | |

SECTION 000101 SUPPLEMENTARY INSTRUCTIONS TO BIDDERS

Section 000101, Supplementary Instructions to Bidders, contains modifications to the basic document, **AIA Document A701, Instructions to Bidders, 2018 Edition**, in the form of additions, deletions and substitutions. Where any part of the basic document is so modified by these Supplementary Instructions, the unaltered provisions shall remain in effect.

ARTICLE 1 - DEFINITIONS

DELETE Paragraph 1.2 in its entirety and, in lieu thereof, SUBSTITUTE the following new Paragraph:

- 1.2 Except as provided for herein, all definitions set forth in the Conditions of the Contract (General, Supplementary and other conditions) or in other Contract documents are applicable to the bidding documents.

ADD the following new Subparagraph as follows: _

- 1.2.1 The following words are intended to mean:

- Furnish (Materials): To supply and deliver to the project ready for installation and in operable condition.
- Install (Services or Labor): To place in final position, complete, anchored, connected and in operable condition.
- Provide: To furnish and install complete. When neither furnish, install nor provide is stated, provide is implied.

ADD the following to the end of Paragraph 1.4

[Add:] “and applicable law.”

ADD the following to the end of Paragraph 1.8

[Add:] “and applicable law.”

ARTICLE 2 – BIDDER’S REPRESENTATIONS

ADD new Paragraph 2.2 as follows:

- 2.2 The Bidder is required to examine carefully in detail the character of the site of the Project, the Contract Documents and all other matters pertinent to the work contemplated. By submitting a bid, the Bidder expressly represents that it has satisfied itself as to the conditions to be encountered, including conditions that are overhead, on the surface and concealed, the character, quality and quantities of work to be done and materials to be furnished, and the requirements of the Contract and Specifications. No allowance or concession will be made for the lack of such information. Where underground and overhead structure locations are shown, they are for the information of the Architect only; their correctness is not guaranteed or warranted by the Owner or

the Architect, and in no event is this information to be considered a part of the Contract Documents, or to be relied upon in preparing the Bid. If this information is used by the Bidder in preparing its Bid, the Bidder must assume all risks resulting from conditions differing from those shown in the information provided. Test Boring Information concerning subsurface materials or conditions which are based upon test pits or test borings has been obtained by the Owner for the Architect's use in designing the Project. This information is available to the Bidder for information only. References to this information may be found in the Table of Contents. The technical data found in the test boring information is represented to be accurate by the Owner, but the conclusions and inferences that may be found in or inferred from the information is not warranted, and the accuracy or completeness of any such conclusions and inferences is not guaranteed by the Owner or the Architect. By submitting a bid, the Bidder represents that it has not relied upon the subsurface information supplied by the Architect or Owner and assumes all responsibility in excavating for this project for any and all subsurface conditions encountered.

The Owner will, to the extent possible, afford the Bidder the opportunity at the Bidder's own expense, to make additional borings or soundings, to drive test piles, to dig test pits on the site of the Work, and to make measurements and studies of all kinds.

There is no expressed or implied agreement that the existing conditions have been correctly indicated and bidders shall take into account that conditions affecting the cost or quantities of work to be done may differ from those indicated.

The Bidder shall carefully examine all Bidding Documents and materials pertinent thereto, with respect to all the categories of work for which the Owner has advertised and will receive bids, so that it is completely aware and satisfied as to the character, quality and quantities of all work, materials and for services required or to be provided by the Bidder to perform and complete all work of its Contract on the Project. Further, the Bidder shall have carefully examined the tentative construction schedule for the work and by submission of a bid, represents that the time set forth for such work is sufficient for the Bidder to complete its work.

The Bidder, by submission of its Bid, represents that it has visited the site, that it has read the Bidding Documents and understands their full character and intent, that it otherwise complied with the provisions of Article 3, and should the Owner subsequently accept its Bid, no claims, allowances or concessions will be made, accepted or recognized by the Owner at any future time for any additional labor, equipment or materials required, or for any difficulties encountered in the Work, or for the lack of any information which could have been foreseen, apparent or ascertained had the Bidder so complied with Article 3.

The Bidder shall ascertain all governmental and utility requirements with respect to wage scales, materials, labor, safety and sanitation and shall base its bid prices on full compliance therewith.

The Bidder has familiarized itself with labor conditions which might affect or influence the performance of the Work.

ARTICLE 3 - BIDDING DOCUMENTS

Paragraph 3.1 - Copies:

Subparagraph 3.1.1

DELETE Subparagraph 3.1.1 in its entirety, and in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 3.1.1 Bidders may obtain complete sets of Bidding Documents from Crabtree, Rohrbaugh & Associates as stated in the Advertisement for Bids for the fee stated therein. The fee for Bidding Documents is **non-refundable**.

DELETE Subparagraph 3.1.2 in its entirety.

ADD new Sub-subparagraph 3.1.5.1 as follows:

- 3.1.5.1 The Bidder agrees that all work product produced by the Architect or its consultants are "Instruments of Service" as defined in AIA Document A201™-2007, General Conditions of the Contract for Construction. "Instruments of Service" include, without limitation, representations, in any medium of expression, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional service agreements.

The Bidder agrees that for the purposes of the bid process, the Architect is the copyright owner of such Instruments of Service and retains all common law, statutory and other reserved rights, including copyrights. Distribution of Instruments of Service to potential bidders is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

The Architect grants to the Bidder a nonexclusive, revocable license to use the Architect's Instruments of Service solely and exclusively for purposes of developing the Bidder's bid, including securing information or bids from the Bidder's material or equipment suppliers, contractors, or subcontractors. The license granted under this section permits the Bidder or the Bidder's contractors, subcontractors, sub-subcontractors, and suppliers to reproduce applicable portions of the Instruments of Service solely and exclusively for use in developing its bid for the Project. If the Bidder is for any reason not awarded the Contract for the Project, the license granted in this section shall immediately terminate.

The Bidder acknowledges that it shall not use the Instruments of Service for any purpose other than to prepare a bid. The Instruments of Service shall not be used as construction drawings or for any specification involved in the construction of the Project. The Bidder, for itself, and the Bidder's contractors, subcontractors, sub-subcontractors, and suppliers, hereby releases and holds the Architect and Architect's consultant(s) harmless from all claims and causes of action arising from any use of the Instruments of Service. The Bidder, to the extent permitted by law, further agrees to defend, indemnify and hold harmless the Architect and its consultants from all costs

and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Bidder's use of the Instruments of Service under this section.

Except for the licenses granted in this section, no other license or right shall be deemed granted or implied under this Agreement. The Bidder shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use or reproduction of the Instruments of Service shall be at the Bidder's sole risk and without liability to the Architect and the Architect's consultants, and subject to Architect's rights and remedies for infringement of Architect's rights, including without limitation, copyrights

Paragraph 3.2 – Modification or Interpretation of Bidding Documents:

Subparagraph 3.2.2

ADD the following new sentences to the end of Subparagraph 3.2.2:

- 3.2.2 [Add:] "All requests for clarification or interpretation shall be made by a Prime Bidder and shall be in writing. Any request made by any other entity will not be addressed. Any request for clarification or interpretation via means other than in writing will not be addressed. Written requests will not be responded to, directly back to the Bidder. If the inquiry requires clarification to, or modification of the Contract Documents, they will be issued via Addendum. If clarification to, or modification of the Contract Documents is not required by the inquiry, the request will not be addressed."

Paragraph 3.3 – Substitutions:

DELETE Subparagraph 3.3.2 in its entirety, including all sub-subparagraphs and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 3.3.2. **Pre-bid substitutions will not be considered.** Following the award of a contract, substitutions proposed by the awarded contractor will be considered in accordance with Division 1 Section "Substitutions".

DELETE Subparagraph 3.3.4 in its entirety.

DELETE Subparagraph 3.3.5 in its entirety.

Paragraph 3.4 - Addenda:

ADD new Sub-subparagraph 3.4.1.1 as follows:

- 3.4.1.1 Clarifications to the Bidding Documents will only be made in writing, by Addenda. Oral statements may not be relied upon and will not be binding or have any legal effect.

DELETE Subparagraph 3.4.3 in its entirety and, in lieu thereof, SUBSTITUTE the following new

Subparagraph:

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

DELETE Subparagraph 3.4.4 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 3.4.4 The Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge, where indicated on the Bid Form, their receipt. Failure of the Bidder to receive any Addenda as provided for herein shall not release such bidder from the obligation of their Bid.

ARTICLE 4 - BIDDING PROCEDURES

Paragraph 4.1 - Preparation of Bids:

ADD the following new sentences to the end of Subparagraph 4.1.1:

- 4.1.1 [Add:] "Attention is directed to the Bid Form bound in the Project Manual. This form is for the information and convenience of the Bidder and is not to be detached from the Project Manual, or filled out or executed. A separate copy of the Bid Form is furnished with the Bidding Documents. Complete two (2) separate copies of the Bid Form and accompanying documents, execute and submit as specified in the Advertisement for Bid".

ADD the following new sentence to the end of Subparagraph 4.1.5:

- 4.1.5 [Add:] "Failure to enter an amount or "No Change", or a similar designation regarding the bid amount for a requested Alternate shall be construed to mean that no change in the Base Bid is required."

INSERT the following sentence after the second sentence of Subparagraph 4.1.7:

- 4.1.7 [Insert:] "The signature of any person, appearing on the Bid Form, shall be in longhand and in ink."

Paragraph 4.2 - Bid Security:

AMPLIFY Subparagraph 4.2.1 as follows:

- 4.2.1 [Amplify:] "Bid security in the type and amount stated in the Advertisement for Bids shall accompany the Bid. Bid Bonds shall be in the form set forth in the Project Manual. Bid bonds shall name as obligee and checks shall be made payable to Berkeley County. A Bidder who submits security in cash or check form shall be bound by the conditions set forth in the Bid Bond."

DELETE Subparagraph 4.2.3 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 4.2.3 If a Surety Bond is used for the Bid Security, it shall be written on a form similar to the enclosed Bid Bond form only, and the Attorney-in-fact who executes the Bond on behalf of the Surety, shall affix to the Bond, a certified and current copy of its power of attorney.

DELETE Subparagraph 4.2.4 in its entirety, and in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 4.2.4 The Owner may declare the Bid Security forfeited to the Owner as liquidated damages if, following the designation, within the firm-bid period, of the Bidder as the apparently lowest responsible Bidder, such Bidder shall thereafter fail to (1) deliver to the Owner within the prescribed time the properly executed Performance Bond and Payment Bond if required by these Contract Documents or (2) if Notice of Intent to Award is given to such Bidder, deliver to the Owner, within the prescribed time, the properly executed counterparts of the construction Agreement and all evidences of insurance as required by these Contract Documents. The Bid Security of all Bidders will be returned (unless previously forfeited as aforesaid) upon (1) the execution of the construction Agreement by the Owner (provided in the case of the Bidder with whom said Agreement is entered into, all required evidences of insurance and Bonds have been previously delivered to the Owner) or (2) the rejection by the Owner of all bids or (3) the expiration of the firm-bid period, including any extensions by operation of law or by mutual consent of the Owner and the apparently lowest responsible Bidder.

Paragraph 4.3 - Submission of Bids:

ADD the following new sentence to the end of Subparagraph 4.3.2 as follows:

- 4.3.2 [Add:] “The Owner shall not be responsible for the opening of Bids not submitted in compliance with these Instructions to Bidders or Supplementary Instructions to Bidders.”

ADD new Subparagraph 4.3.6 as follows:

- 4.3.6 [Add:] The documents to be submitted on bid day are as follows:
1. One (1) Original Price Proposal
 2. One (1) Bid Security
 3. One (1) Non-Collusion Certificate
 4. One (1) Non-Discrimination Affidavit
 5. One (1) Contractor’s Qualification Statement, AIA Document A305

ADD new Subparagraph 4.3.7 as follows:

- 4.3.7 [Add:] The Owner reserves the right to waive non-material defects or informalities in any and all bids.

Paragraph 4.4 - Modification or Withdrawal of Bid:

DELETE Subparagraph 4.4.1 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 4.4.1 A Bidder may withdraw its Bid at any time up to the scheduled time for opening of Bids. The withdrawal of a Bid prior to the deadline for bidding may occur only by appearing in person, by First-Class mail, or by fax. A Bid may not be modified after the deadline for submittal. After the deadline for submittal, no Bid may be withdrawn.

MODIFY the first sentence of Subparagraph 4.4.2 as follows:

- 4.4.2 [*Modify:*] “..... and these Bidding Documents.”

DELETE Subparagraph 4.4.3 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 4.4.3 Bids may not be withdrawn by the Bidder for a period not to exceed 45 calendar days following the actual date of opening thereof. However, if award of Contracts is delayed by a required approval of another government agency, the sale of bonds or the award of a grant or grants, the Bids may not be withdrawn by the Bidder for a period not to exceed 90 days from the date of Bid opening.

ARTICLE 5 -CONSIDERATION OF BIDS

Paragraph 5.1 - Opening of Bids:

DELETE the first part of the first sentence of Paragraph 5.1 up to and including “or when otherwise required by law,” and begin this sentence as follows:

- 5.1 “Bids properly identified and received”
 - 5.1.1 Post Bid Assessment: The Owner reserves the right to consider changes in the Work after Bid opening and prior to award of Contracts intended to reduce the cost of the Project. The Owner may at its election, begin discussions with the lowest responsible Bidder, based on low Base Bid and any Alternates determined to be acceptable to the Owner. After Bid opening and upon the Owner’s identification of the apparent low bidder and the Owner’s request, the apparent low bidder agrees to provide cost breakdowns in accordance with estimates used in the preparation of its Bid to the Owner and Architect, using cost breakdown forms that will be provided by the Architect. The confidentiality of such cost-breakdown and bid materials, when received, will be maintained by the Owner, the Architect and their representatives. Such requests will be made only where, in the sole judgment of the Owner, the Owner’s ability to fully fund the Project is detrimentally affected by the total amount of the lowest responsible and responsive Bids and accepted Alternates received from all Bidders. Matters to which such requests could be directed may include site work, landscaping, predetermined means and methods of construction, substitutions, deletions, changes in scope, and changes in schedule. Following receipt of the information requested, the Owner may propose deletions of Work and may at its option prepare draft deduct Change Orders. The Owner’s award of the Contract to the Bidder can be made conditional upon the Bidder’s consent and

agreement to the execution of the proposed deduct Change Orders, following award and at a time contemporaneous with the execution of the Owner-Contractor Agreement. If through this process the Owner cannot achieve the cost reductions necessary to meet its budget parameters, the Owner reserves the right to reject all Bids associated with the Contract and re-bid the Project.

Paragraph 5.2 - Rejection of Bids:

ADD new Subparagraph 5.2.1 as follows:

- 5.2.1 The Owner reserves the right to reject any or all Proposals, or parts thereof, or items therein. The Owner reserves the right to disqualify Bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of the Bidder, or by other means permissible under applicable law.

Paragraph 5.3 - Acceptance of Bid Award:

AMPLIFY Subparagraph 5.3.1 as follows:

- 5.3.1 [Amplify:] The Owner, before making an award, may require any Bidder, upon at least three (3) days request to present satisfactory evidence, in the form specified by the Owner, of their experience, qualifications, financial ability, and other matters reasonably related to their ability to satisfactorily perform and complete the Work covered by their Bid.

The Owner reserves the right to consider such matters, facts and circumstances presented by the Bidder, as shall be permitted by West Virginia law, in making a determination whether the Bidder is a responsible Bidder. The Owner reserves the right to request such other information or data as they may deem necessary to evaluate the qualifications of the Bidder to satisfactorily perform the functions of the Contractor.

The Bidder must submit a Contractor's Qualification Statement (AIA Document A305) which shall include a listing of a minimum of 3 similar projects completed within the past 5 years of a minimum Contract value equal to or greater than the Bid amount of this Project. Also, provide names and numbers for the Superintendent, the Principal, the Construction Manager, if applicable, and the Architect for all similar projects completed within the past 5 years.

The Contractor's Qualification Statement shall be supplemented by listing any principal, officer, or shareholder in your company who has either owned, operated or who was affiliated with any other business in a management capacity, under a different name. List the name of the business and provide a Contractor's Qualification Statement for such business.

ADD new Subparagraphs as follows:

- 5.3.3 After review of the Bids, during the Bid period stipulated in Article 4.4.1, at its sole discretion, the Owner may issue a Notice of Intent to Award. Upon receipt of Notice of

Intent to Award, the Contractor shall, within five (5) calendar days, deliver to the Owner (by delivery to the Architect) the following:

1. Performance and Payment Bonds as set forth in the Contract Documents and Article 7 of the Instructions to Bidders.
2. Insurance Certificate, policies or other evidence of insurance set forth in the Contract Documents.
3. Post Bid Information required in Article 6 of the Instructions to Bidders.

Failure of the Bidder to whom Notice of Intent to Award has been given to deliver the above items required by the Contract Documents, within five (5) days, shall constitute grounds for the Owner to declare the Bidder's Bid Security forfeited.

Upon receipt of the documents listed above, the Owner may at its sole discretion, award the Contract. A written Notice to Proceed will be issued to establish the start of the Contract duration.

5.3.4 Upon receipt of the partially executed Agreement from the Contractor, the Owner shall execute and return to the Contractor, one (1) copy of the executed Agreement and shall issue the Notice to Proceed for the Work.

5.3.5 When a Unit Price is rejected by the Owner, any additional work that would have been subject to that unit price shall be subject to Article 7 of the General Conditions of the Contract for Construction and the Supplementary General Conditions.

ARTICLE 6 - POST BID INFORMATION

DELETE Paragraph 6.2 - Owner's Financial Capability, in its entirety._

ARTICLE 7 - PERFORMANCE BOND AND PAYMENT BOND

Paragraph 7.1 - Bond Requirements:

DELETE Subparagraph 7.1.1 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:_

7.1.1 Prior to execution of the Contract, the successful Bidder shall furnish bonds covering the faithful performance of the Contract and the payment of all obligations arising thereunder in the forms included in the Project Manual and each in an amount equal to 100% of the Contract Amount. The Performance Bond shall remain in force and effect until the Contractor's Work has been finally accepted. The Bidder shall pay all premiums with respect to such bonds.

DELETE Subparagraph 7.1.2 in its entirety._

DELETE Subparagraph 7.1.3 in its entirety, and in lieu thereof, SUBSTITUTE the following new

Subparagraph:

- 7.1.3 Bonds shall be secured from a surety company as stipulated in Section 000750 Supplementary General Conditions.

Paragraph 7.2 - Time of Delivery and Form of Bonds:

DELETE Subparagraph 7.2.1 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 7.2.1 The Bidder shall deliver properly executed bonds to the Owner (by delivery to the Architect) no later than five (5) days after written Notice of Intent to Award is issued.

DELETE Subparagraph 7.2.2 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 7.2.2 Bonds shall be written on the Performance Bond form and the Payment Bond form included in the Contract Documents for the amount required in the Contract Documents.

7.2.2.1 The Contract Bonds shall be written in the form included in the Project Manual and the Bonds shall be executed by or on behalf of the successful Bidder, as Principal, in the following manner:

7.2.2.2 If the successful Bidder is an individual, the Contract Bonds shall be executed by them personally, their signature shall be witnessed and any trade name employed in the conduct of their business shall be stated.

7.2.2.3 If the successful Bidder is a partnership, the Contract Bonds shall be executed in the name of the partnership by each of the Partners, and the signatures of the Partners shall be witnessed.

7.2.2.4 If the successful Bidder is a corporation, the Contract Bonds shall be executed in the name of the corporation: (1) by the President or a Vice President and attested by the Secretary or Assistant Secretary and the Corporate Seal shall be attached; (2) by a duly authorized agent of the corporation whose authority to act, as of the date of the Contract Bonds, shall be established by proof, satisfactory to the Owner, attached to the Contract Bonds.

7.2.2.5 Execute the Contract Bonds in behalf of the surety in such manner as to legally bind the surety. In the event the execution in behalf of the surety is by an agent or agents, a proper power of attorney, evidencing the authority of such agent or agents, shall be attached to the Contract Bonds. Such power of attorney shall bear the same date as the Contract Bonds to which it is attached.

7.2.2.6 Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

ARTICLE 8 - FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

DELETE Subparagraph 8.1.1 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

8.1.1 The Agreement shall be written on the form included in these Contract Documents.

ARTICLE 9 CONSTRUCTION TIME

ADD new Article 9 as follows:

Paragraph 9.1 - Pre-Bid Conference:

9.1.1 Prospective Bidders and Sub-bidders are invited to attend a Pre-Bid Conference at the time and location stated in the Advertisement for Bids during which questions of general and technical nature and other matters regarding the Construction Documents may be raised by those in attendance and discussed with the Owner, the Architect and the Engineers.

Paragraph 9.2 - Pre-Construction Conference:

9.2.1 Soon after the award of the Contract but prior to the start of construction, the Contractor or their representative shall attend a Pre-Construction Conference with representatives of Berkeley County and the Architect. The conference will serve to acquaint the participants with the general plan of Contract administration and requirements under which the construction operation is to proceed and will inform the Contractor, in detail, of the obligations imposed on them and their subcontractors by the Executive Orders concerning Equal Employment Opportunity.

9.2.2 The date, time and place of the conference will be furnished to the Contractor by the Architect.

Paragraph 9.3- Contract Time:

9.3.1 The Agreement will include a stipulation that the Work be substantially complete (as defined in the Contract) within **250** calendar days, and that completion of ALL punch list work and Final Acceptance of the Work be achieved within **30** calendar days.

Paragraph 9.4- Time of Completion:

9.4.1 The Bidder agrees that they will commence work within forty-eight (48) hours following receipt of Notice to Proceed from the Owner (which may be given by the Architect pursuant to authority granted by the Owner) and shall be substantially completed within the number of calendar days set forth herein.

9.4.2 By submitting a Bid, the Bidder certifies that they shall coordinate the schedule for the construction of the Project including, but not limited to, preparing and updating the Schedule.

9.4.3 By submitting a Contract Bid, the Bidder certifies that the Contract Time set forth herein is sufficient for the Bidder to complete its Work.

Paragraph 9.5- Non-Interference with Owner's Operations:

- 9.5.1 The Contractor shall schedule their Work accordingly and shall cooperate with the Owner to see that daily operations are disrupted as little as possible. No work shall begin until it is fully coordinated with the Owner so that the Owner can make provisions to allow for the disruption that the work will cause. The Owner shall be given at least five (5) days' notice before any work is to be started. This notice shall be in writing.
- 9.5.2 The Contractor shall erect temporary barriers to segregate the area of new construction from the existing facility and remainder of the Owner's property. It is the intention that these temporary barriers be constructed to prevent the flow of dust dirt, debris, etc., into the adjacent areas of the facility. The temporary barriers must also serve as safety barriers to prevent access of unauthorized people into the work area.
- 9.5.3 The Contractor must maintain access to the Owner's facilities for employees, visitors, other users, and deliveries. In no way shall the Contractor prevent access to the remaining portions of the site.

ARTICLE 10 - GOVERNING LAWS AND REGULATIONS

ADD new Article 10 as follows:

Paragraph 10.1 – Governing Laws and Regulations

- 10.1.1 The Bidder's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances and codes, and the rules and regulations of all authorities having jurisdiction over construction of the Project may apply to this Contract.

Paragraph 10.2 - Sales Tax

- 10.2.1 Because the Owner is a tax-exempt entity of the State of West Virginia, certain tax advantages may result with respect to this Contract and related matters. The successful Bidder shall agree to cooperate fully so that the Owner can benefit from all tax relief available. The Bidder shall reflect the tax exemption in the Bid. The Bidder shall satisfy its responsibilities under this provision before being entitled to final payment.

END OF SECTION 000101

AIA[®] Document A305[®] – 2020

Contractor's Qualification Statement

THE PARTIES SHOULD EXECUTE A SEPARATE CONFIDENTIALITY AGREEMENT IF THEY INTEND FOR ANY OF THE INFORMATION IN THIS A305-2020 TO BE HELD CONFIDENTIAL.

SUBMITTED BY: _____ **SUBMITTED TO:** _____
(*Organization name and address.*) (*Organization name and address.*)

TYPE OF WORK TYPICALLY PERFORMED

(*Indicate the type of work your organization typically performs, such as general contracting, construction manager as constructor services, HVAC contracting, electrical contracting, plumbing contracting, or other.*)

THIS CONTRACTOR'S QUALIFICATION STATEMENT INCLUDES THE FOLLOWING:
(*Check all that apply.*)

- Exhibit A – General Information
- Exhibit B – Financial and Performance Information
- Exhibit C – Project-Specific Information
- Exhibit D – Past Project Experience
- Exhibit E – Past Project Experience (Continued)

CONTRACTOR CERTIFICATION

The undersigned certifies under oath that the information provided in this Contractor's Qualification Statement is true and sufficiently complete so as not to be misleading.

Organization's Authorized Representative
Signature

Date

Printed Name and Title

NOTARY

State of:

County of:

Signed and sworn to before me this ____ day of _____

Notary Signature

My commission expires: _____

ADDITIONS AND DELETIONS:

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

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



AIA[®] Document A305[®] – 2020 Exhibit A

General Information

This Exhibit is part of the Contractor’s Qualification Statement, submitted by _____ and dated the _____ day of _____ in the year _____
(In words, indicate day, month and year.)

§ A.1 ORGANIZATION

§ A.1.1 Name and Location

§ A.1.1.1 Identify the full legal name of your organization.

§ A.1.1.2 List all other names under which your organization currently does business and, for each name, identify jurisdictions in which it is registered to do business under that trade name.

§ A.1.1.3 List all prior names under which your organization has operated and, for each name, indicate the date range and jurisdiction in which it was used.

§ A.1.1.4 Identify the address of your organization’s principal place of business and list all office locations out of which your organization conducts business. If your organization has multiple offices, you may attach an exhibit or refer to a website.

§ A.1.2 Legal Status

§ A.1.2.1 Identify the legal status under which your organization does business, such as sole proprietorship, partnership, corporation, limited liability corporation, joint venture, or other.

- .1 If your organization is a corporation, identify the state in which it is incorporated, the date of incorporation, and its four highest-ranking corporate officers and their titles, as applicable.
- .2 If your organization is a partnership, identify its partners and its date of organization.
- .3 If your organization is individually owned, identify its owner and date of organization.

ADDITIONS AND DELETIONS:

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- .4** If the form of your organization is other than those listed above, describe it and identify its individual leaders:

§ A.1.2.2 Does your organization own, in whole or in part, any other construction-related businesses? If so, identify and describe those businesses and specify percentage of ownership.

§ A.1.3 Other Information

§ A.1.3.1 How many years has your organization been in business?

§ A.1.3.2 How many full-time employees work for your organization?

§ A.1.3.3 List your North American Industry Classification System (NAICS) codes and titles. Specify which is your primary NAICS code.

§ A.1.3.4 Indicate whether your organization is certified as a governmentally recognized special business class, such as a minority business enterprise, woman business enterprise, service disabled veteran owned small business, woman owned small business, small business in a HUBZone, or a small disadvantaged business in the 8(a) Business Development Program. For each, identify the certifying authority and indicate jurisdictions to which such certification applies.

§ A.2 EXPERIENCE

§ A.2.1 Complete Exhibit D to describe up to four projects, either completed or in progress, that are representative of your organization's experience and capabilities.

§ A.2.2 State your organization's total dollar value of work currently under contract.

§ A.2.3 Of the amount stated in Section A.2.2, state the dollar value of work that remains to be completed:

§ A.2.4 State your organization's average annual dollar value of construction work performed during the last five years.

§ A.3 CAPABILITIES

§ A.3.1 List the categories of work that your organization typically self-performs.

§ A.3.2 Identify qualities, accreditations, services, skills, or personnel that you believe differentiate your organization from others.

§ A.3.3 Does your organization provide design collaboration or pre-construction services? If so, describe those services.

§ A.3.4 Does your organization use building information modeling (BIM)? If so, describe how your organization uses BIM and identify BIM software that your organization regularly uses.

§ A.3.5 Does your organization use a project management information system? If so, identify that system.

§ A.4 REFERENCES

§ A.4.1 Identify three client references:

(Insert name, organization, and contact information)

§ A.4.2 Identify three architect references:

(Insert name, organization, and contact information)

§ A.4.3 Identify one bank reference:

(Insert name, organization, and contact information)

§ A.4.4 Identify three subcontractor or other trade references:

(Insert name, organization, and contact information)



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Document A305[®] – 2020 Exhibit B

Financial and Performance Information

This Exhibit is part of the Contractor’s Qualification Statement, submitted by _____ and dated the _____ day of _____ in the year _____
(In words, indicate day, month and year.)

§ B.1 FINANCIAL

§ B.1.1 Federal tax identification number:

§ B.1.2 Attach financial statements for the last three years prepared in accordance with Generally Accepted Accounting Principles, including your organization’s latest balance sheet and income statement. Also, indicate the name and contact information of the firm that prepared each financial statement.

§ B.1.3 Has your organization, its parent, or a subsidiary, affiliate, or other entity having common ownership or management, been the subject of any bankruptcy proceeding within the last ten years?

§ B.1.4 Identify your organization’s preferred credit rating agency and identification information.
(Identify rating agency, such as Dun and Bradstreet or Equifax, and insert your organization’s identification number or other method of searching your organization’s credit rating with such agency.)

§ B.2 DISPUTES AND DISCIPLINARY ACTIONS

§ B.2.1 Are there any pending or outstanding judgments, arbitration proceedings, bond claims, or lawsuits against your organization, its parent, or a subsidiary, affiliate, or other entity having common ownership or management, or any of the individuals listed in Exhibit A, Section 1.2, in which the amount in dispute is more than \$75,000?
(If the answer is yes, provide an explanation.)

§ B.2.2 In the last five years has your organization, its parent, or a subsidiary, affiliate, or other entity having common ownership or management:
(If the answer to any of the questions below is yes, provide an explanation.)

.1 failed to complete work awarded to it?

.2 been terminated for any reason except for an owners’ convenience?

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

- .3 had any judgments, settlements, or awards pertaining to a construction project in which your organization was responsible for more than \$75,000?
- .4 filed any lawsuits or requested arbitration regarding a construction project?

§ B.2.3 In the last five years, has your organization, its parent, or a subsidiary, affiliate, or other entity having common ownership or management; or any of the individuals listed in Exhibit A Section 1.2:
(If the answer to any of the questions below is yes, provide an explanation.)

- .1 been convicted of, or indicted for, a business-related crime?
- .2 had any business or professional license subjected to disciplinary action?
- .3 been penalized or fined by a state or federal environmental agency?

Project Specific Information

This Exhibit is part of the Contractor's Qualification Statement, submitted by _____ and dated the day of _____ in the year _____
(In words, indicate day, month and year.)

PROJECT:

(Name and location or address.)

CONTRACTOR'S PROJECT OFFICE:

(Identify the office out of which the contractor proposes to perform the work for the Project.)

TYPE OF WORK SOUGHT

(Indicate the type of work you are seeking for this Project, such as general contracting, construction manager as constructor, design-build, HVAC subcontracting, electrical subcontracting, plumbing subcontracting, etc.)

CONFLICT OF INTEREST

Describe any conflict of interest your organization, its parent, or a subsidiary, affiliate, or other entity having common ownership or management, or any of the individuals listed in Exhibit A Section 1.2, may have regarding this Project.

§ C.1 PERFORMANCE OF THE WORK

§ C.1.1 When was the Contractor's Project Office established?

§ C.1.2 How many full-time field and office staff are respectively employed at the Contractor's Project Office?

§ C.1.3 List the business license and contractor license or registration numbers for the Contractor's Project Office that pertain to the Project.

§ C.1.4 Identify key personnel from your organization who will be meaningfully involved with work on this Project and indicate (1) their position on the Project team, (2) their office location, (3) their expertise and experience, and (4) projects similar to the Project on which they have worked.

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.

§ C.1.5 Identify portions of work that you intend to self-perform on this Project.

§ C.1.6 To the extent known, list the subcontractors you intend to use for major portions of work on the Project.

§ C.2 EXPERIENCE RELATED TO THE PROJECT

§ C.2.1 Complete Exhibit D to describe up to four projects performed by the Contractor's Project Office, either completed or in progress, that are relevant to this Project, such as projects in a similar geographic area or of similar project type. If you have already completed Exhibit D, but want to provide further examples of projects that are relevant to this Project, you may complete Exhibit E.

§ C.2.2 State the total dollar value of work currently under contract at the Contractor's Project Office:

§ C.2.3 Of the amount stated in Section C.2.2, state the dollar value of work that remains to be completed:

§ C.2.4 State the average annual dollar value of construction work performed by the Contractor's Project Office during the last five years.

§ C.2.5 List the total number of projects the Contractor's Project Office has completed in the last five years and state the dollar value of the largest contract the Contractor's Project Office has completed during that time.

§ C.3 SAFETY PROGRAM AND RECORD

§ C.3.1 Does the Contractor's Project Office have a written safety program?

§ C.3.2 List all safety-related citations and penalties the Contractor's Project Office has received in the last three years.

§ C.3.3 Attach the Contractor's Project Office's OSHA 300a Summary of Work-Related Injuries and Illnesses form for the last three years.

§ C.3.4 Attach a copy of your insurance agent's verification letter for your organization's current workers' compensation experience modification rate and rates for the last three years.

§ C.4 INSURANCE

§ C.4.1 Attach current certificates of insurance for your commercial general liability policy, umbrella insurance policy, and professional liability insurance policy, if any. Identify deductibles or self-insured retentions for your commercial general liability policy.

§ C.4.2 If requested, will your organization be able to provide property insurance for the Project written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis?

§ C.4.3 Does your commercial general liability policy contain any exclusions or restrictions of coverage that are prohibited in AIA Document A101-2017, Exhibit A, Insurance A.3.2.2.2? If so, identify.

§ C.5 SURETY

§ C.5.1 If requested, will your organization be able to provide a performance and payment bond for this Project?

§ C.5.2 Surety company name:

§ C.5.3 Surety agent name and contact information:

§ C.5.4 Total bonding capacity:

§ C.5.5 Available bonding capacity as of the date of this qualification statement:



AIA[®] Document A305[®] – 2020 Exhibit D

Contractor's Past Project Experience

	1	2	3	4
PROJECT NAME				
PROJECT LOCATION				
PROJECT TYPE				
OWNER				
ARCHITECT				
CONTRACTOR'S PROJECT EXECUTIVE				
KEY PERSONNEL (include titles)				
PROJECT DETAILS	Contract Amount Completion Date % Self-Performed Work	Contract Amount Completion Date % Self-Performed Work	Contract Amount Completion Date % Self-Performed Work	Contract Amount Completion Date % Self-Performed Work
PROJECT DELIVERY METHOD	<input type="checkbox"/> Design-bid-build <input type="checkbox"/> Design-build <input type="checkbox"/> CM constructor <input type="checkbox"/> CM advisor <input type="checkbox"/> Other:	<input type="checkbox"/> Design-bid-build <input type="checkbox"/> Design-build <input type="checkbox"/> CM constructor <input type="checkbox"/> CM advisor <input type="checkbox"/> Other:	<input type="checkbox"/> Design-bid-build <input type="checkbox"/> Design-build <input type="checkbox"/> CM constructor <input type="checkbox"/> CM advisor <input type="checkbox"/> Other:	<input type="checkbox"/> Design-bid-build <input type="checkbox"/> Design-build <input type="checkbox"/> CM constructor <input type="checkbox"/> CM advisor <input type="checkbox"/> Other:
SUSTAINABILITY CERTIFICATIONS				



Document A305[®] – 2020 Exhibit E

Contractor's Past Project Experience, Continued

	1	2	3	4
PROJECT NAME				
PROJECT LOCATION				
PROJECT TYPE				
OWNER				
ARCHITECT				
CONTRACTOR'S PROJECT EXECUTIVE				
KEY PERSONNEL (include titles)				
PROJECT DETAILS	Contract Amount Completion Date % Self-Performed Work	Contract Amount Completion Date % Self-Performed Work	Contract Amount Completion Date % Self-Performed Work	Contract Amount Completion Date % Self-Performed Work
PROJECT DELIVERY METHOD	<input type="checkbox"/> Design-bid-build <input type="checkbox"/> Design-build <input type="checkbox"/> CM constructor <input type="checkbox"/> CM advisor <input type="checkbox"/> Other:	<input type="checkbox"/> Design-bid-build <input type="checkbox"/> Design-build <input type="checkbox"/> CM constructor <input type="checkbox"/> CM advisor <input type="checkbox"/> Other:	<input type="checkbox"/> Design-bid-build <input type="checkbox"/> Design-build <input type="checkbox"/> CM constructor <input type="checkbox"/> CM advisor <input type="checkbox"/> Other:	<input type="checkbox"/> Design-bid-build <input type="checkbox"/> Design-build <input type="checkbox"/> CM constructor <input type="checkbox"/> CM advisor <input type="checkbox"/> Other:
SUSTAINABILITY CERTIFICATIONS				

_____, hereinafter referred to as the CONTRACTOR, agrees as follows:

1. The CONTRACTOR shall not discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, or sex. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated, during employment, without regard to their race, color, religious creed, ancestry, national origin, age or sex. Such affirmative action shall include, but is not 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. The CONTRACTOR shall post in conspicuous places, available to all employees, agents, applicants for employment, and other persons a notice to be provided by the contracting agency setting forth the provisions of the non-discrimination clause.
2. The CONTRACTOR shall, in advertisement or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age or sex.
3. The CONTRACTOR shall actively recruit minority subcontractor or subcontractors with substantial minority representation among their employees.
4. The CONTRACTOR shall include the provisions of the non-discrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.

CONTRACTOR:

WITNESS:

By: _____

State of _____, County of _____

Subscribed to and sworn to before me this _____ day of _____, 20__

Notary Public: _____

My Commission Expires: _____



AIA[®] Document A101[™] – 2017

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

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

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

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

CONTRACT:

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

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

The Owner and Contractor agree as follows.

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

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

Init.

TABLE OF ARTICLES

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

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

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

(Check one of the following boxes.)

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

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

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

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work as stipulated in Article 9 of Specification Section 00010 and further defined on the Bid Form for this Contract:

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

Init.

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

[] By the following date:

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

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

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

ARTICLE 4 CONTRACT SUM

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

§ 4.2 Alternates

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

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

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

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

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

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

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

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

§ 4.5 Liquidated damages, if *(Paragraphs deleted)* applicable shall be as stipulated in Paragraph 8.4 of Specification Section 000750 or another Contract Document.

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

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

§ 5.1.3 Refer to Article 9 of Specification Section 000750 and Specification Section 012900 for further information. The payment schedule will also be finalized at the first Pre-Construction Meeting.
(Federal, state or local laws may require payment within a certain period of time.)

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

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

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

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

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

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

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

§ 5.1.7 Retainage

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

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

In accordance with AIA Document A201-2017 and as further described in Article 9 of Specification Section 000750.

§ 5.1.7.1.1 The following items are not subject to retainage:

Init.

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User Notes:

(1180202343)

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

In accordance with Article 9 of AIA Document A201-2017 and as further described in Article 9 of Specification Section 000750.

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

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

In accordance with Article 9 of AIA Document A201-2017 and as further described in Article 9 of Specification Section 000750.

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

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

In accordance with Article 9 of AIA Document A201-2017 and as further described in Article 9 of Specification Section 000750.

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

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

§ 5.2 Final Payment

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

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

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, **and approval by the Owner.**

§ 5.3 Interest

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

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

%

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

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

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

Init.

§ 6.2 Binding Dispute Resolution

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

(Check the appropriate box.)

[*(Paragraphs deleted)*

X] Pursuant to **Article 15** of AIA Document A201–2017 and further modified in **Specification Article 15 of Section 000750**

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

ARTICLE 7 TERMINATION OR SUSPENSION

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

(Paragraphs deleted)

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

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner’s representative:

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

§ 8.3 The Contractor’s representative:

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

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

§ 8.5 Insurance and Bonds

AIA Document A101™ -2017, Exhibit A, Insurance and Bonds, referenced on Page 1 of this Agreement is not being incorporated as part of this Agreement.

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in **AIA Document A201™-2017, General Conditions of the Contract for Construction, Article 11 of Specification Section 000750**, and elsewhere in the Contract Documents.

Init.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A201™–2017, General Conditions of the Contract for Construction, **Article 11 of Specification Section 000750, Article 7 of Specification Section 000101,** and elsewhere in the Contract Documents.

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

(Paragraphs deleted)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor as **modified**
- .2 **Intentionally deleted**
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4

(Paragraphs deleted)

Intentionally deleted

- .5 Drawings

Number	Title	Date
See Exhibit A – List of Drawings		

- .6 Specifications

Section	Title	Date	Pages
See Exhibit B – Table of Contents			

- .7 Addenda, if any:

Number	Date	Pages

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

- .8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

(Paragraphs deleted)

[
] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
See Exhibit B – Table of Contents			

(Paragraphs deleted)

- .9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders,

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sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibits A List of Drawings and Exhibit B Table of Contents

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

OWNER *(Signature)*

CONTRACTOR *(Signature)*

(Printed name and title)

(Printed name and title)

SECTION 000515 EMPLOYMENT VERIFICATION ACT

1. The Contractor and all subcontractors shall comply with applicable Federal and State rules, regulations, and processes regarding employment eligibility verification. Without limiting the foregoing, the Contractor shall submit to Owner or Architect, evidence of compliance with Federal and State employment eligibility verification rules and regulations, including submission of required Federal and State employment eligibility verification forms, at or prior to the time the Contract is executed. No Contract shall be formally awarded or executed unless the Contractor has complied with all applicable Federal and State employment eligibility verification rules. The Contractor shall ensure all subcontractors comply with Federal and State employment eligibility verification rules and regulations and obtain and submit all required employment eligibility verification forms from subcontractors.
2. Subcontracts between and among the Contractor and all subcontractors shall include a requirement that all parties thereto shall comply with applicable Federal and State employment eligibility verification rules and regulations, including a requirement that all parties submit required Federal and State employment eligibility verification forms.
3. The Contractor or Subcontractor shall be responsible for any penalties imposed for failure to comply with applicable Federal or State laws regarding employment eligibility verification.

END OF SECTION 000515



AIA[®] Document A310[™] – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)

SURETY:

(Name, legal status and principal place of business)

OWNER:

(Name, legal status and address)

BOND AMOUNT: \$

PROJECT:

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

SAMPLE

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.

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

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

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

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

Init.

AIA[®] Document A312[™] – 2010

Payment Bond

CONTRACTOR:

(Name, legal status and address)

SURETY:

(Name, legal status and principal place of business)

OWNER:

(Name, legal status and address)

CONSTRUCTION CONTRACT

Date:

Amount: \$

Description:

(Name and location)

SAMPLE

BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$

Modifications to this Bond:

None

See Section 18

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

SURETY

Company: (Corporate Seal)

Signature: _____

Name and

Title:

Signature: _____

Name and

Title:

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

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

ADDITIONS AND DELETIONS:

The author of this document 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.

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

Init

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

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

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

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

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

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

§ 16 Definitions

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

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

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

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

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

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

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

§ 18 Modifications to this bond are as follows:

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

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____
(Corporate Seal)

Company: _____
(Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

Signature: _____
Name and Title: _____
Address: _____

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Performance Bond

CONTRACTOR:
(Name, legal status and address)

SURETY:
(Name, legal status and principal place of business)

OWNER:
(Name, legal status and address)

CONSTRUCTION CONTRACT
Date:
Amount: \$
Description:
(Name and location)

SAMPLE

BOND
Date:
(Not earlier than Construction Contract Date)

Amount: \$
Modifications to this Bond: None See Section 16

CONTRACTOR AS PRINCIPAL **SURETY**
Company: *(Corporate Seal)* Company: *(Corporate Seal)*

Signature: _____ Signature: _____
Name and Name and
Title: Title:

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

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER: **OWNER'S REPRESENTATIVE:**
(Architect, Engineer or other party:)

ADDITIONS AND DELETIONS:
The author of this document 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

Init.

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

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

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

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

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

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

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

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

§ 14 Definitions

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

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

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

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

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

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

§ 16 Modifications to this bond are as follows:

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

CONTRACTOR AS PRINCIPAL

Company: _____
(Corporate Seal)

SURETY

Company: _____
(Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

Signature: _____
Name and Title: _____
Address: _____

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General Conditions of the Contract for Construction

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

THE OWNER:
(Name, legal status and address)

THE ARCHITECT:
(Name, legal status and address)

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ADDITIONS AND DELETIONS:

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

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

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

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

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

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

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

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

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

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

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

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

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

§ 2.2 Evidence of the Owner's Financial Arrangements

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

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

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

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

§ 2.3 Information and Services Required of the Owner

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

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

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

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

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

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

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

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

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

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

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

§ 3.4 Labor and Materials

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

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

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

§ 3.5 Warranty

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

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

§ 3.6 Taxes

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

§ 3.7 Permits, Fees, Notices and Compliance with Laws

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

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

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

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

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

§ 3.9 Superintendent

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

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

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

§ 3.10 Contractor's Construction and Submittal Schedules

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

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

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

§ 3.11 Documents and Samples at the Site

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

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

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

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

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

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

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

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

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

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

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely

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

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

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

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

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

§ 3.15 Cleaning Up

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

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

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

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

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

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

§ 4.2 Administration of the Contract

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

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

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

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

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

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

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

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

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

§ 5.3 Subcontractual Relations

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

§ 5.4 Contingent Assignment of Subcontracts

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

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

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

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

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

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

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

§ 6.2 Mutual Responsibility

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

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

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

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

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

§ 6.3 Owner's Right to Clean Up

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

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

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

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

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

§ 7.2 Change Orders

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

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

§ 7.3 Construction Change Directives

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

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

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

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

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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

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

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

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

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

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

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

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

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

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

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

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

§ 8.2 Progress and Completion

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

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

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

§ 8.3 Delays and Extensions of Time

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

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

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

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

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

§ 9.3 Applications for Payment

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

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

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

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

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

§ 9.4 Certificates for Payment

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

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

§ 9.5 Decisions to Withhold Certification

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

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

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

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

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

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

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

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

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

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

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

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

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

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§ 9.7 Failure of Payment

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

§ 9.8 Substantial Completion

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

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

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

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

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

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

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

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

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

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

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

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

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

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

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

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

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

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

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.3 Hazardous Materials and Substances

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

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

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

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

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

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

§ 10.4 Emergencies

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

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

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

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

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

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or

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expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

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

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

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

§ 11.3 Waivers of Subrogation

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

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

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

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

§11.5 Adjustment and Settlement of Insured Loss

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

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

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

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

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

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

§ 12.2.2 After Substantial Completion

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

that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

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

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

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

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

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

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

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

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

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

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

§ 13.5 Interest

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

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

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

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

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

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

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

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

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

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

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

§ 14.3 Suspension by the Owner for Convenience

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

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

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

§ 14.4 Termination by the Owner for Convenience

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

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

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

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

§ 15.1.5 Claims for Additional Cost

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

§ 15.1.6 Claims for Additional Time

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

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

§ 15.1.7 Waiver of Claims for Consequential Damages

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

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

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

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

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

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

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

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

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

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

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

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

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

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

§ 15.4 Arbitration

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

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

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

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

§ 15.4.4 Consolidation or Joinder

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

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

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

The following supplements modify, change, delete from or add to the “**General Conditions of the Contract for Construction**” **AIA Document A201, 2017 Edition**. Where any article of the General Conditions is modified or any paragraph, subparagraph or clause thereof is modified or deleted by these Supplementary General Conditions, the unaltered provisions of the Article, Paragraph or Subparagraph shall remain in effect.

The General Conditions of the Contract for Construction may also be supplemented elsewhere in the Contract Documents.

ARTICLE 1 - GENERAL PROVISIONS

Paragraph 1.1 - Basic Definitions

Subparagraph 1.1.1 – The Contract Documents

DELETE the first sentence of Subparagraph 1.1.1 in its entirety and, in lieu thereof, substitute the following:

[*Substitute:*] The Contract Documents are enumerated in the Agreement between Owner and Contractor (hereinafter the Agreement) and consist of the Copyright, the Advertisement for Bids, Instructions to Bidders (AIA Document A701), Supplementary Instructions to Bidders, Bid Forms, Contractor’s Qualification Statement (AIA Document A305), Non-Collusion Affidavit of Contractor, Non-Discrimination Affidavit, Standard Form of Agreement Between Owner and Contractor (AIA Document A101), Employment Verification Act, Affidavit Accepting Provisions of any applicable Workman’s Compensation Act, Bid Bond (AIA Document A310), Performance & Payment Bonds (AIA Document A312), Conditions of the Contract (General, Supplementary and Special), Contractor’s Affidavit of Release of Liens (AIA Document G706A), List of Drawings, the Drawings, Specifications, all Addenda issued prior to execution of the Contract and all modifications thereto.

DELETE the last sentence of Subparagraph 1.1.1 in its entirety.

Subparagraph 1.1.2 – The Contract

ADD the following new Sub-subparagraph to the end of Subparagraph 1.1.2:

- 1.1.2.1 The invalidity of any covenant, restriction, condition, limitation or any other part or provision of the Contract Documents shall not impair or affect in any manner the validity, enforceability or effect of the remainder of the Contract Documents.

Subparagraph 1.1.3 – The Work

ADD the following to the end of the first sentence:

[*Add:*] “including any subcontractor’s and sub-subcontractor’s work and suppliers or any other entity for which Contractor is responsible and whether on or off the site of the Project.”

Subparagraph 1.1.5 – The Drawings

ADD the following to the end of Subparagraph 1.1.5:

[Add:] “and shop drawings.”

ADD the following new Subparagraphs:

- 1.1.9 The term “product” includes materials, systems and equipment.
- 1.1.10 The term “provide” includes furnishing and installing a product, complete in place, operating, tested and approved.
- 1.1.11 The term “building code” and the term “code” refer to regulations of governmental agencies having jurisdiction.
- 1.1.12 The terms “approved”, “required” and “as directed” refer to and indicate the work or materials that may be approved, required or directed by Architect acting as the agent of Owner.
- 1.1.13 The term “similar” means in its general sense and not necessarily identical.
- 1.1.14 The terms “shown”, “indicated”, “detailed”, “noted”, “scheduled” and terms of similar import refer to requirements contained in the Contract Documents.

Paragraph 1.2 - Correlation and Intent of the Contract Documents

ADD the following new Subparagraphs:

- 1.2.4 Computed dimensions shall take precedence over scale dimensions, and large scale drawings shall take precedence over small scale drawings.
- 1.2.5 Anything shown on the Drawings and not mentioned in the Specifications or mentioned in the Specifications and not shown on the Drawings shall have the same effect as if shown or mentioned respectively in both. Any work shown on one Drawing shall be construed to be shown in all Drawings, and Contractor shall coordinate the Work and Drawings to conform to the requirements of the Contract Documents.
- 1.2.6 In the event of conflict between different provisions in the Contract Documents, the provision calling for the higher quality or greater benefit to Owner shall prevail, unless Owner accepts in writing the provision calling for a lower quality or lesser benefit.
- 1.2.7 If any portion of the Contract Documents shall be in conflict with any other portion, after the application of the rules of interpretation set forth in this Paragraph 1.2, the various documents comprising the Contract Documents shall govern in the order of precedence as herein set forth according to their latest date of execution: (a) Change Orders submitted, processed and approved in accordance with applicable procedure; (b) written amendment to the various agreements (including but not limited to the Agreement) entered into or executed by Owner; (c) the various agreements entered into and executed by Owner, including but not limited to the Agreement (as modified by any Addenda

thereto); (d) Addenda; (e) Supplementary Conditions; (f) General Conditions; (g) Division 1 Specifications; (h) Instructions to Bidders; (i) Advertisement for Bids; (j) Bid Form; and (k) Drawings and Specifications. In the event of an inconsistency between the Specifications and Drawings, the interpretation as determined by Architect shall prevail; as between large scale drawings and small scale drawings, the large scale drawings shall take precedence. Specifications having greater detail or specificity take priority over specifications of lesser detail or specificity and detail takes precedence over general drawings.

Paragraph 1.5 - Ownership and Use of Drawings, Specifications and Other Instruments of Service

ADD the following new Subparagraphs:

- 1.5.3 All reports, plans, specifications and computer files relating to this project (hereinafter the Instruments of Service) are the property of Crabtree, Rohrbaugh & Associates. Crabtree, Rohrbaugh & Associates retains all common law, statute and other reserved rights including the copyright thereto.
- 1.5.4 Except as provided in Section 000101, Sub-subparagraph 3.1.4.1, reproduction of the material herein or substantial use without written permission of Crabtree, Rohrbaugh & Associates violates the copyright laws of the United States and will be subject to legal prosecution.

Paragraph 1.6 – Notice

Subparagraph 1.6.1

DELETE the following from the end of the subparagraph and, in lieu thereof, SUBSTITUTE it as follows:

[Delete:] “if a method for electronic transmission is set forth in the Agreement.”

[Substitute:] “, and actually received by the individual for which it was intended. Notice by mail shall be effective three (3) days after deposit in the mail. In addition, notice to the Contractor may be in the form of meeting minutes.”

ADD new Subparagraph 1.6.3 as follows:

- 1.6.3 With regard to giving notice, the designated representative shall be as set forth in Paragraphs 8.3 and 8.4 of AIA Document A101 Standard Form of Agreement Between Owner and Contractor.

Paragraph 1.7 – Digital Data Use and Transmission

DELETE the last sentence of Paragraph 1.7 in its entirety, and in lieu thereof, replace it with the following:

[Replace] “Protocols governing the use of Architect’s Instruments of Service are defined in Sub-subparagraphs 3.12.4.1 through 3.12.4.9 of these Supplementary General Conditions. The stated

protocols apply only to the use of .dwf or .dwg format files. A separate Media Agreement, as provided by Architect, must be executed by Contractor when requesting the Revit Model.

Paragraph 1.8 – Building Information Models Use and Reliance

DELETETE Paragraph 1.8 in its entirety and, in lieu thereof, SUBSTITUTE the following new Paragraph.

- 1.8 A separate Media Agreement stating protocols governing the use of Architect’s building information model (Revit Model) must be executed by Contractor when requesting the Revit Model.

ARTICLE 2 - OWNER

Paragraph 2.1 - General

Subparagraph 2.1.1

CHANGE the first part of the first sentence to identify Owner as follows:

**Berkeley County Council
400 W. Stephen Street
Martinsburg, WV 25401**

Subparagraph 2.1.2

DELETE Subparagraph 2.1.2 in its entirety.

Paragraph 2.2 – Evidence of the Owner’s Financial Arrangements

DELETE Paragraph 2.2, including all subparagraphs, in its entirety.

Paragraph 2.3 Information and Services Required of the Owner

Subparagraph 2.3.3

CHANGE “shall employ” to “may employ” in the first line.

DELETE “as to whom the Contractor has no reasonable objection” from the second line.

Subparagraph 2.3.4

DELETE the last sentence in its entirety, and in lieu thereof, SUBSTITUTE the following new sentence:

[Substitute] “Contractor shall be responsible to verify the accuracy of the site’s physical characteristics, legal limitations and utility locations and bring to the attention of Owner and Architect any discrepancies discovered that may affect the Work.”

Subparagraph 2.3.5

INSERT at the beginning of the first sentence: “Upon written request from the Contractor,”

Subparagraph 2.3.6

DELETE Subparagraph 2.3.6 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

2.3.6 Contractor with whom Owner shall enter into a contract shall be entitled to receive up to three (3) sets of drawings and specifications without charge.

Paragraph 2.4 - Owner's Right to Stop the Work

DELETE the word "repeatedly" from the first sentence.

ADD the following to the end of the Subparagraph:

[Add:] "This right shall be in addition to and not in restriction of or derogation of Owner's rights under Article 14 hereof. Owner's right to stop the Work shall not relieve Contractor of its responsibilities and obligations under or pursuant to the Contract Documents. In the event an order by Owner to stop the Work is determined to be inappropriate, it shall not constitute a breach of Contract by Owner, but rather shall be a suspension of Work for the convenience of Owner.

Paragraph 2.5 - Owner's Right to Carry Out the Work

REVISE the second line of the first sentence from "a ten-day period" to a "a seven-day period".

DELETE the second sentence in its entirety and, in lieu thereof, SUBSTITUTE the following new sentence:

In such case, Owner shall have the right to deduct from payments then or thereafter due Contractor, the cost to Owner of correcting such default or neglect, including Owner's expenses and any fees or costs charged by attorneys, Architect or Owner's Representative in connection with such corrective action.

ADD the following to the end of the Subparagraph:

[Add:] "Nothing contained herein shall obligate Owner to carry out work for the benefit of Contractor."

[Add:] "This right shall be in addition to and not in restriction of or derogation of Owner's rights under Article 14 hereof. Owners right to stop the Work shall not relieve Contractor of its responsibilities and obligations under or pursuant to the Contract Documents.

[Add:] "Owner shall not be required to comply with the seven-day notice provision stated above, and shall have the right to immediately correct any deficiencies of Contractor subject to the remaining provisions of this Paragraph 2.5, where providing such notice would impose risk of substantial disruption to the Project schedule or to the safety of any person or property."

ADD new Paragraph 2.5 as follows:

ARTICLE 3 - CONTRACTOR

Paragraph 3.2 - Review of Contract Documents and Field Conditions by Contractor

Subparagraph 3.2.2

DELETE the second sentence in its entirety and, in lieu thereof, SUBSTITUTE the following new sentences:

[*Substitute:*] “Contractor shall not be liable to Owner or Architect for any costs, fees or damage resulting from errors, inconsistencies or omissions in the Contract Documents unless Contractor should have reasonably recognized such error, inconsistency or omission and failed to report it to Architect. Contractor warrants that Contractor has carefully studied and reviewed the Contract Documents and that Contractor has reported any errors, inconsistencies or omissions to Architect. Contractor hereby acknowledges and declares that the Contract Documents are full and complete, are sufficient to have enabled Contractor to determine the cost of the Work and to fulfill all of Contractor's obligations under the Contract Documents. If Contractor encounters an error, inconsistency or omission, Contractor shall immediately submit it to Architect for resolution. If Contractor performs any construction activity knowing or having reason to know that it involves an error, inconsistency or omission, Contractor shall be responsible for such performance and shall bear the costs for correction. Contractor shall be liable to Owner for all costs fees by attorneys or Owner’s Representative, and fees or costs for Additional Services of Architect (as defined in the Prime Agreement between Owner and Architect) to the extent that such fees and costs are caused by or arise from any deficient Work or the negligent acts or omissions of Contractor. Notwithstanding any other dispute resolution procedure or right provided in this Agreement, Architect shall render a determination regarding whether such Additional Services were caused by or arose from the negligent acts or omissions of Contractor and such determination shall be final and binding on Contractor.”

Subparagraph 3.2.4

DELETE Subparagraph 3.2.4 in its entirety.

Paragraph 3.3 - Supervision and Construction Procedures

Subparagraph 3.3.2

ADD the following to the end of the last Subparagraph:

[*Add:*] “...or claiming by, through or under Contractor and for any damages, losses, costs and expenses resulting from such acts or omissions. If any failure by Contractor to comply with the Contract Documents or to maintain an approved project schedule causes any damage or costs to Owner, then Contractor shall indemnify and hold harmless Owner for any such damage or costs. Such damage or cost to Owner shall include any payment by Owner to others or liability of Owner to others resulting from such failure by Contractor, including but not limited to (1) any payment for liability arising from change orders, claims, arbitration, or litigation, or (2) any payment or liability for fees or costs to Owner’s Representative, Architect, consultants, experts and attorneys.

ADD the following new Subparagraph:

- 3.3.4 In the event any of the Work is required to be inspected or approved by any governmental authority having jurisdiction, Contractor shall cause such inspection or approval to be scheduled and performed. No inspection performed or failed to be performed shall release Contractor from its obligations to have such work inspected nor shall it be construed as an approval or acceptance of the Work or any part thereof.

Paragraph 3.4 - Labor and Materials

Subparagraph 3.4.1

ADD the following new Sub-subparagraph to Subparagraph 3.4.1:

- 3.4.1.1 Refer to Division 1, Section "Temporary Facilities and Controls", for detailed requirements regarding temporary utilities, services and facilities.

Subparagraph 3.4.2

DELETE Subparagraph 3.4.2 in its entirety, and in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 3.4.2 Refer to Division 1, Section "Substitutions", for additional requirements regarding substitutions.

Subparagraph 3.4.3

ADD the following new sentence to the end of the Subparagraph:

[Add:] "Owner encourages but does not require that laborers and mechanics employed on the Project be residents of the County in which the work is being performed. Contractor shall be licensed in accordance with all applicable requirements of Name of Borough or municipality. Upon request of Owner, Contractor shall remove from the project any worker who is incompetent, careless or unsafe."

Paragraph 3.5 – Warranty

Subparagraph 3.5.1

DELETE "inherent in the quality of the work" from the second sentence.

DELETE the word "may" from the third sentence and replace it with "will".

ADD to the following to the end of the third sentence.

[Add] "unless Owner accepts in writing such nonconforming Work."

ADD the following new sentence to the end of the Subparagraph:

[Add:] “Contractor will protect both new work and existing conditions during the period of construction which may be susceptible to damage or abuse.

ADD the following new Subparagraphs:

- 3.5.3 Contractor’s warranty period shall be 1 year from the date of Substantial Completion of the Work and/or phase of the Work, except for specific items of work or equipment for which the warranty period is specified as a longer period elsewhere in the Contract Documents. During the warranty period, Contractor shall promptly correct all defects which are due to defective materials or workmanship at no cost to Owner. Such correction shall extend to any other work damaged by such correction.
- 3.5.4 At the end of the 11 month period from from the commencement of the warranty period, Contractor shall schedule a walk-through inspection with Owner and Architect to identify any warranty items to be corrected under such warranty period.
- 3.5.5 Contractor shall be responsible for scheduling the eleven (11) month walk-through inspection contemplated in this warranty Section. The one (1) year Contractor’s warranty period shall be extended for a period of thirty (30) days beyond the date the eleven (11) month walk-through inspection is actually performed. It is the intent of this Section to extend the warranty period by thirty (30) days beyond the date the eleven (11) month walk-through inspection is finally completed in order to give Owner the benefit of the walk-through inspection prior to the expiration of the warranty period. The thirty (30) day extension period shall not begin to run until final completion of the walk-through inspection. Thus, if the walk-through inspection takes more than one day to complete, the thirty (30) day extension begins to run from the date the walkthrough is actually completed. If Owner unreasonably refuses to schedule the eleven (11) month walk-through inspection, Contractor shall notify Owner in writing of a date on which Contractor shall be available to perform the walk-through inspection, which date shall not be less than ten (10) days after the date of Contractor’s letter, and the thirty (30) day extension shall begin to run from the date of the proposed walk-through inspection. Under no circumstances shall Contractor’s warranty expire in less than one (1) full year.
- 3.5.6 Even after the eleven (11) month walk-through inspection, Contractor shall remain responsible to correct, at no cost to Owner, any defective Work or material discovered thereafter that is not in compliance with the Contract Documents and for any damages arising from such defective Work or material.

Paragraph 3.6 - Taxes

ADD the following new Subparagraph 3.6.1

- 3.6.1 Refer to Division 0, Section “Supplementary Instructions to Bidders”, Article 10, regarding tax advantages for political subdivisions.

Paragraph 3.7 - Permits, Fees, Notices and Compliance with Laws

Subparagraph 3.7.1

DELETE Subparagraph 3.7.1 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

3.7.1 Owner, through Architect, will submit drawings and specifications to the appropriate public authorities having jurisdiction, for approval. Owner will pay all fees for plan checking.

Subparagraph 3.7.3

ADD the following new sentence to the end of Subparagraph 3.7.3:

[Add:] "Owner shall not be responsible for any inspection fees due to re-inspection of rejected work due to faulty or defective workmanship of Contractor, or scheduling error by Contractor. Contractor shall be responsible for all such re-inspection fees."

Paragraph 3.8 - Allowances

DELETE Paragraph 3.8 in its entirety. No cash allowances are permitted.

Paragraph 3.9 – Superintendent

Paragraph 3.10 - Contractor's Construction and Submittal Schedules

ADD new Sub-subparagraph 3.10.1.1 as follows:

3.10.1.1 Refer to Division 1, Section "Construction Progress Documentation", for further requirements regarding construction schedules.

Paragraph 3.11 - Documents and Samples at the Site

DELETE the last sentence of Paragraph 3.11 and, in lieu thereof, SUBSTITUTE the following new sentence:

[Substitute:] "These shall be in electronic form or paper copy, available to Architect and Owner, and shall be delivered to Owner, in good condition, upon completion of the Work, and before final payment is made."

Paragraph 3.12 - Shop Drawings, Product Data and Samples

ADD the following new Sub-sub paragraphs:

3.12.4.1 Issuance of the Design Professional's Instruments of Service via electronic media in either .dwf or .dwg file format, hereinafter referred to as "Media" will be provided at the request of Contractor. This Media is provided without detail and dimensions and is for illustrative purposes only and does not amend, supplement or replace any drawing, Contract Document, Specification and/or in any way, the Contract requirements of such. The purpose of this Media is solely for coordination by Contractor and shall not be relied upon for any other purpose. Contractor fully releases the Design Professional, its agents, officers, and employees, and consultants, from any and all liability, including without limitation, damages, consequential

damages, costs and attorney's fees that Contractor may incur as a result of its reliance on the information contained in the Media.

- 3.12.4.2 In accepting and utilizing Media provided by the Design Professional, Contractor covenants and agrees that all such Media are instruments of service between the Design Professional and the client of the Design Professional, who shall be deemed the author of the Media, and the Design Professional shall retain all common law, statutory law and other rights, including copyrights, whether or not such copyright is registered. Contractor acknowledges that the information and designs contained on the Media are provided to Contractor as a convenience and at the request of Contractor. Contractor also acknowledges that there may be undiscovered errors or inconsistencies in the Media that may result from any number of issues, including migrating the data from printed material to the Media or from others adding information to, or changing information in, the Media once transmitted to Contractor. Contractor agrees not to hold the Design Professional responsible for any defects Contractor may discover with the Media or information contained in the Media.
- 3.12.4.3 Contractor agrees not to use the Media, in whole or in part, for any purpose or project other than the Project of this Contract. Contractor agrees to waive all claims against the Design Professional resulting in any way from use of the Media.
- 3.12.4.4 Contractor agrees, to the fullest extent permitted by law, to defend, release, indemnify and hold the Design Professional harmless from and against any and all claims, damage, loss, liability or cost, including reasonable attorney's fees and costs of defense, arising out of or resulting from any changes made by anyone other than the Design Professional, or from any reuse of the Media, and data contained on the Media without the prior written consent of the Design Professional.
- 3.12.4.5 Contractor recognizes that information contained on the Media may not be 100% compatible with Contractor's computer system; therefore, Contractor agrees that the Design Professional shall not be liable for the completeness or accuracy of any materials provided on the Media arising out of, due to, or resulting from the difference in computer and software systems, or translations or mistranslation of electronic data, the incompatibility of viewing or operating programs, or the corruption of documents or data as a result of compatibility issues.
- 3.12.4.6 Contractor recognizes that information stored on electronic media including, but not limited to, computer disks may be subject to undetectable alteration and/or uncontrollable deterioration, due to, among other causes, errors in transmission, conversion, media degradation, software error or human error or alteration. Accordingly, the Media is provided for informational purposes only and is not intended as an end-product. Contractor therefore agrees that the Design Professional shall not be liable for the completeness or accuracy of any materials provided on the Media for this or any other reason whatsoever.
- 3.12.4.7 Under no circumstances shall the transfer of instruments of service in electronic media, for use by Contractor, be deemed a sale by the Design Professional, and the Design Professional makes no warranties, either expressed or implied, of merchantability and fitness for any particular purpose of the electronic media, or the information stored or contained thereon. Contractor acknowledges that the Media is provided as a convenience by the Design Professional at Contractor's request, and Contractor assumes all risk in the use of the Media, and the data contained therein for any purpose. Contractor further acknowledges that the Design Professional was

not engaged to provide usable electronic data, or a usable system, compilation, Model or program to Contractor or any other party. Contractor agrees that the Design Professional shall not be liable in any manner whatsoever for any subsequent usage of the data provided on electronic media.

3.12.4.8 Contractor agrees that in the event of a conflict between non-electronic data and data provided on the Media, including but not limited to the Model, the data contained on non-electronic documents presides over data on the Media. While the Design Professional has made a reasonable effort in accordance with the generally accepted standards of professional skill and care so that the data contained on the Media is accurate, the Design Professional makes no representation or warranty concerning the accuracy of the data contained on the Media, or any viruses contained in the materials as delivered or any other defect or error or alleged defect or error in the materials as delivered.

3.12.4.9 Contractor, by submitting a Bid and requesting electronic media from the Design Professional, accepts all terms of use of the Media as stated herein. Media will be provided to Contractor, upon Contractor's request, and upon remittance of payment to the following schedule:

- 1 to 10 Sheets as they appear in the Contract Documents - \$100
- 11 to 20 Sheets as they appear in the Contract Documents - \$200
- 21 to 30 Sheets as they appear in the Contract Documents - \$300
- 31 to 40 Sheets as they appear in the Contract Documents - \$400

The above costs apply to Architectural sheets only. The cost for electronic files for the engineering disciplines may vary. The Engineer of Record, as the author of the engineering drawings, shall be contacted directly for cost information, and the procedures for requesting their electronic media.

ADD new Subparagraph 3.12.11 as follows:

3.12.11 Refer to Division 1, Section "Submittals", for further requirements regarding shop drawings, product data and samples.

Paragraph 3.13 Use of Site

Subparagraph 3.13.1

ADD new Subparagraph 3.13.1 as follows:

3.13.1 Control or Reference Points: Immediately upon occupancy of the project site for the purpose of commencement of the Work, Contractor shall locate, including but not limited to, all general control or reference points, benchmarks, etc., and take such action as may be necessary to prevent damage or destruction of such points. In the event Contractor fails to do so, Contractor shall be liable for all such costs necessary to re-establish such control or reference points.

Paragraph 3.14 - Cutting and Patching

DELETE Paragraph 3.14, including all subparagraphs, in its entirety, and in lieu thereof, SUBSTITUTE it with the following new Paragraph:

- 3.14 Refer to Division 1, Section “Cutting and Patching”, for requirements regarding cutting and patching.

Paragraph 3.15 Cleaning Up

Subparagraph 3.15.1

ADD new Subparagraph 3.15.3 as follows:

- 3.15.3 Refer to Division 1, Section “Contract Closeout”, for further requirements regarding cleaning up.

Paragraph 3.18 Indemnification

Subparagraph 3.18.1

ADD “of any kind” after the word “expenses” in the first sentence.

DELETE “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)” from the first sentence.

ADD “wrongful or” before the word “negligent” from the first sentence.

ADD the following new Paragraphs as follows:

- 3.19 Contractor shall indemnify Owner for any additional fee, cost or expense (beyond a base fee) charged to Owner by Architect or other project consultant pursuant to its own agreement with Owner to the extent such additional fee, cost or expense is caused by Contractor’s acts or omissions.
- 3.20 Owner may deduct amounts owed by Contractor pursuant to Paragraph 3.18 or 3.19 from payments otherwise due to Contractor, and upon request of Owner shall provide Contractor a copy of the written agreement requiring such additional payment.

ARTICLE 4 - ARCHITECT

Paragraph 4.1 - General

Subparagraph 4.1.2

DELETE the word “Contractor” from the second line.

Paragraph 4.2 – Administration of the Contract

Subparagraph 4.2.4

DELETE the first and second sentences in their entirety and, in lieu thereof, SUBSTITUTE the following:

[*Substitute:*] “Owner and Contractor shall endeavor to communicate with each other through Architect about matters arising out of or relating to the Contract.”

Subparagraph 4.2.5

ADD to the end of the subparagraph, the following:

[Add:] “, with Certificates for Payment being subject to Owner approval.”

Subparagraph 4.2.6

ADD the following to the end of the first sentence.

[Add:] “and shall do so unless Owner accepts such nonconforming work”

Subparagraph 4.2.9

ADD after “Certificates of Substantial Completion” AND after “a final Certificate for Payment”, both in the first sentence, the following:

[Add:] “subject to Owner approval,”

ARTICLE 5 – SUBCONTRACTORS

Paragraph 5.2 - Award of Subcontracts and Other Contracts for Portions of the Work

Subparagraph 5.2.1

DELETE the first sentence of Subparagraph 5.2.1 and, in lieu thereof, SUBSTITUTE the following new sentence:

[Substitute:] “Within fourteen (14) days after the award of the Contract, Contractor shall notify Owner and Architect, in writing, the names of the persons or entities, including those who are to furnish materials or equipment fabricated to a special design, proposed for each of the principal portions of the Work.

Subparagraph 5.2.3

DELETE the second and third sentences in their entirety and, in lieu thereof, SUBSTITUTE the following:

[Substitute:] “In the event of any such objection, Contractor shall not contract with the proposed person or entity, and there shall be no increase in the Contract Sum or Contract Time.”

ADD new Paragraph 5.5 as follows:

Paragraph 5.5 - Payment to Subcontractors

- 5.5.1 Contractor shall pay each subcontractor, upon receipt of payment from Owner, an amount equal to the percentage of completion allowed to Contractor on account of such subcontractor's Work, less the percentage retained from payments to Contractor; Contractor shall also require each subcontractor to make similar payments to sub-subcontractors. All such payments shall be paid within the time limits required by applicable law.
- 5.5.2 If Owner fails to approve an Application for Payment for a cause which Owner and Architect determine is the fault of Contractor and not the fault of a particular subcontractor, or if Contractor fails to make payment which is properly due to a particular subcontractor, Owner may pay such subcontractor directly, less the amount to be retained under its Subcontract. Any amount so paid by Owner shall be repaid to Owner by Contractor. Owner shall have no obligation to pay or to see to the payment of any monies to any subcontractor. Nothing contained in Paragraph 5.5 shall be deemed to create any contractual relationship between Owner and any subcontractor or to create any rights in any subcontractor against Owner. Contractor shall promptly advise Owner of any claim or demand by a subcontractor claiming that any amount is due to such subcontractor or claiming any default by Contractor in any of its obligations to such subcontractor.

ARTICLE 6 – CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

Paragraph 6.1 – Owners Right to Perform Construction and to Award Separate Contracts

DELETE Subparagraph 6.1.3 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 6.1.3 It is the sole duty and responsibility of Contractor to plan, direct, perform and coordinate their Work as to cause no delay, hindrance, loss, injury, or similar damage to their subcontractors or suppliers. In the event Contractor causes any delay, hindrance, loss, injury, or similar damage to their subcontractors or suppliers, the aggrieved subcontractors or suppliers may pursue recovery of money damages against Contractor pursuant to Article 15. There shall be no claim asserted against Owner or Architect, or their respective directors, employees or agents for money damages based on the alleged acts or omissions with respect to coordinating, expediting or directing the Work. If Contractor prosecutes a claim against Owner or Architect for money damages or for an alleged failure to coordinate, expedite or direct the Work, then Contractor shall indemnify and hold harmless Owner and Architect against any and all costs, losses or expenses, including counsel fees, that Owner or Architect incur in responding to any such claim plus 10% interest per annum on all such costs from the date of occurrence of such costs up to the date of payment.

Paragraph 6.2 – Mutual Responsibility Subparagraph 6.2.3

DELETE the second sentence of Subparagraph 6.2.3 in its entirety and, in lieu thereof, SUBSTITUTE the following new sentence:

[Substitute:] "Costs caused by delays, or by improperly timed activities or defective construction shall be borne by the responsible party therefore. Contractor shall indemnify Owner for any costs, damages or payments Owner incurs (including any payments to other contractors, Architect, legal counsel, agents or consultants) arising from or relating to Work by Contractor that is not in compliance with the Contract Documents. Owner may withhold payments otherwise due to Contractor in the event of such indemnification duty

ARTICLE 7 - CHANGES IN THE WORK

Paragraph 7.1 - General

Subparagraph 7.1.2

REVISE the first part of the first sentence of Subparagraph 7.1.2 to read as follows:

[Revise:] "A Change Order shall be based upon agreement among Owner and Contractor; a Construction Change Directive"

Subparagraph 7.1.3

DELETE Subparagraph 7.1.3 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

7.1.3 Before any Change Order is prepared, Contractor shall submit to Architect an itemized breakdown of the cost of the proposed Change in the Work. The term "cost" shall be interpreted to mean and include the actual cost of the following:

1. Labor, including foremen.
2. Materials at cost plus applicable taxes entering permanently into the Work.
3. Rental cost of construction plant and equipment, whether rented from Contractor or others.
4. Power and consumable supplies for the operation of power equipment.
5. Liability insurance and bonds.
6. Social security, old age and unemployment contributions.

When determining the labor costs of Work by Change Order, Contractor shall use the actual wage paid to the personnel performing the Work, and if requested by Owner or Architect, at any time during or after the project, Contractor shall provide certified payroll records necessary to evidence those labor costs. Using the actual wage paid to the personnel performing the Work, Contractor shall be entitled to fifteen percent (15%) of the total cost of the above for overhead, profit, supervision and miscellaneous expenses if they perform the Work with their own forces, or to the Subcontractor who performs the Work. In the case where the Work is performed by a subcontractor, Contractor may add five percent (5%) to the Subcontractor's total amount as Contractor's commission. Where Change Orders include both increases and decreases in the Contract Amount, the above fifteen percent (15%) will be allowed on the net increase only.

Paragraph 7.2 - Change Orders

Subparagraph 7.2.1

DELETE Subparagraph 7.2.1 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 7.2.1 A Change Order is a written instrument prepared by Architect and signed by Owner, Contractor and Architect. A Change Order is the only method by which the Contract Sum and/or the Contract Time may be adjusted. A Change Order shall provide for the following: (1) a change in the Work, if any; (2) the amount of the adjustment in the Contract Sum, if any; and (3) the extent of the adjustment in the Contract Time, if any.

ADD the following new Subparagraphs:

- 7.2.2 Contractor is responsible for submitting accurate cost and pricing data to support its proposals for change orders and other Contract price adjustments under the Contract Documents. Contractor shall certify in writing that to the best of its knowledge and belief, the cost and pricing data submitted is accurate, complete, current and in accordance with the terms of the Contract Documents with respect to pricing of change orders. Contractor shall also certify in writing that he has made reasonable good faith inquiries to appropriate individuals within its organization to confirm that the data submitted is accurate, complete and current. The above-described certification shall be required for all change order requests with a positive or negative value greater than \$1,000.00. If it is later determined by audit or by other means that the cost and pricing data submitted is inaccurate, incomplete, not current or not in compliance with the terms of the Contract Documents regarding the pricing of change orders, then an appropriate contract price reduction shall be made.
- 7.2.3 Contractor shall perform the work of Change Orders only with personnel appropriate for the tasks performed. Should Contractor use overqualified personnel, Contractor shall only be entitled to payment for the work at the wage rate of the appropriate personnel, plus the applicable multipliers noted in 7.1.3.
- 7.2.4 Any Contractor creating the need for Additional Services by Architect, with respect to a Change Order, shall pay all costs associated with such Additional Services, and Architect shall prepare and present to Owner for approval, a Change Order or Construction Change Directive regarding such costs.

Paragraph 7.3 – Construction Change Directives
Subparagraph 7.3.2

ADD new Sub-subparagraph 7.3.2.1 as follows:

- 7.3.2.1 Any Contractor creating the need for Additional Services by Architect, with respect to a Construction Change Directive, shall pay all costs associated with such Additional Services, and Architect shall prepare and present to Owner for approval, a Change Order or Construction Change Directive regarding such costs.

ARTICLE 8 - TIM

Paragraph 8.1 – Definitions

Subparagraph 8.1.3

INSERT after “Architect”, the following:

[Insert:] “and approved by Owner”

Paragraph 8.3 – Delays and Extensions of Time

Subparagraph 8.3.1

DELETE (3) in its entirety and, in lieu thereof, SUBSTITUTE the following:

[Substitute:] “(3) by fire or adverse weather conditions documented in accordance with Section 15.1.6.”

DELETE (4) in its entirety and, in lieu thereof, SUBSTITUTE the following:

[Substitute:] “(4) by delay authorized by Owner pending a proceeding pursuant to Article 15; or”

ADD the following new sentences to the end of Subparagraph 8.3.1:

[Add:] “All claims for extension of time shall be made, in writing, to Architect and Owner no more than seven (7) calendar days after the occurrence of the event causing the delay. If Contractor has caused Project delay, it shall be liable for, among other things, reimbursing Owner for any additional fees to Architect resulting from such delay.”

Subparagraph 8.3.3

DELETE Subparagraph 8.3.3 in its entirety and, in lieu thereof, SUBSTITUTE the following:

8.3.3 Contractor recognizes that delays, acceleration or hindrances to the Work may occur. No claim or litigation for increased costs, charges, expenses or damages of any kind shall be filed by Contractor against Owner, Architect or Owner (or against any of their respective employees or agents) for any delays, acceleration, hindrances, or sequencing of work due to any cause whatsoever, notwithstanding whether such delays are caused by factors within or outside Contractor’s control. Contractor’s sole remedy for delays, acceleration, hindrances or sequencing of work shall be an extension of the Contract Time pursuant to this Paragraph 8.3. Should Contractor file any claim or litigation for money damages against Owner, Architect or Owner (including their employees or agents) in violation of this provision, such contractor shall provide indemnification for any costs incurred in the defense against such claim or litigation, including all fees by attorneys and experts, plus 10% interest per annum on all such costs from the date of occurrence of such costs up to the date of payment.

ARTICLE 9 - PAYMENTS AND COMPLETION

Paragraph 9.1 Contract Sum

Subparagraph 9.1.2

ADD the following new Sub-subparagraphs:

- 9.1.2.1 Owner reserves the right to accept or reject any and all Unit Prices stipulated on the Bid Form.
- 9.1.2.2 If quantities originally contemplated are materially changed so that application of a unit price will cause a substantial inequity to Owner or Contractor, Owner reserves the right to equitably adjust the Unit Price or to require that the work be performed on a time and material basis.

Paragraph 9.2 – Schedule of Values

ADD new Subparagraph 9.2.1 as follows:

- 9.2.1 Refer to Division 1 Section, “Applications for Payment” for requirements regarding the schedule of values.

ADD new Subparagraph 9.2.2 as follows:

- 9.2.2 The Schedule of Values shall be prepared in such a manner that each major item of Work and each subcontracted item of Work is shown as a line item on AIA Document G703, Application and Certificate for Payment Continuation Sheet. Each major item of Work shall be further broken down into separate line items for work done in each area of the building, site and each phase of construction. Each work item shall be broken down into separate line items for material and labor. Each line item shall include quantities and unit prices in such detail as required by Architect.

Paragraph 9.3 - Applications for Payment

Subparagraph 9.3.1

DELETE Subparagraph 9.3.1 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

- 9.3.1 At least fifteen (15) days before the date established for each progress payment, Contractor shall submit to Architect an itemized Application for Payment for Work completed in accordance with the Contract Documents. Such application shall be notarized and supported by such data substantiating Contractor’s right to payment as Owner or Architect may require, such as copies of requisitions, and releases and waiver of liens from subcontractors and suppliers and reflecting retainage.

Notwithstanding the language in §9.10.5 or any other section hereof, before Owner shall have any obligation to release any payments for Work completed to Contractor, Contractor shall deliver an executed and notarized “Partial Waiver and Release of Mechanics Lien Claims” in the form provided. The partial waiver of liens shall waive Contractor’s right to file a lien against the Property or Owner for an amount equal to the payment received by Contractor at that time.

Contractor shall obtain and post a bond guaranteeing payment for labor and materials provided by subcontractors in an amount, form and a surety acceptable to Owner.

Contractor acknowledges that Owner may file with the Office of the Prothonotary of Berkeley County, the relevant provisions of the Contract containing the total amount of the Contract price and Contractor acknowledges that it is aware of the total Contract price.

Contractor hereby agrees that it will defend, indemnify and hold harmless Owner from and against any mechanics' lien or claim filed by any subcontractor by reason of Contractor's failure to pay the Subcontractor any amount owed to such Subcontractor. Contractor shall prevent the filing of any mechanics' lien, or should a lien be filed, Contractor shall undertake any and all action necessary to remove said lien. Any failure of Contractor in any of its obligations in this §9.3.1 shall constitute a material breach of this Contract. Furthermore, Contractor shall be obligated to pay Owner all of Owner's costs incurred in defending or removing any such mechanics' lien whether filed by Contractor or any subcontractor. This shall include payment of all of Owner's attorney's fees, whether incurred in removing or challenging any mechanics' lien claim filed by Contractor or any subcontractor, or in enforcing Contractor's obligations hereunder.

Owner shall retain ten percent (10%) of all amounts due Contractor until the Work is fifty percent (50%) completed. When the Work is fifty percent (50%) completed, at the sole discretion of Owner, one-half of the amount retained by Owner may be returned to Contractor, provided Contractor provides written consent of surety to such reduction in retainage to Owner along with its Application for Payment, provided Architect approved the application and reduction of retainage, and further provided that Contractor is making satisfactory progress and there is no specific cause for greater withholding.

If Owner reduces the retainage as stated above, Owner shall then retain five percent (5%) of all amounts due Contractor after the Work is fifty percent (50%) completed. The retained percentage will be paid on with the final Payment or as otherwise provided hereafter. In the event a dispute arises between Owner and Contractor, which dispute is based upon increased costs claimed by Contractor occasioned by damages or other actions of another contractor, additional retainage, in the sum of one and one half times the amount of any possible liability, may be withheld until such time as a final resolution is agreed to by all parties directly or indirectly involved, unless Contractor causing the additional claim furnishes an additional bond satisfactory to Owner to indemnify Owner against the claim.

The full Contract retainage may be reinstated if the manner of completion of the Work and its progress do not remain satisfactory to Owner or Architect or if Surety withholds its consent or for other good and sufficient reasons.

ADD new Sub-subparagraph 9.3.1.3 as follows:

9.3.1.3 Refer to Division 1 Section "Applications for Payment" for additional requirements regarding applications for payment.

Paragraph 9.5 - Decisions to Withhold Certification
Subparagraph 9.5.1

DELETE the first sentence of Subparagraph 9.5.1 and, in lieu thereof, SUBSTITUTE it with the following:

[*Substitute:*] “Architect shall not certify payment and shall withhold a Certificate for Payment in whole or in part to the extent necessary to protect Owner.”

REVISE the following Sub-subparagraphs as follows:

9.5.1.7 DELETE the word “repeated”.

ADD the following new Sub-subparagraphs:

9.5.1.8 Unsatisfactory prosecution of the Work in accordance with the Contract Documents.

9.5.1.9 Failure to comply with any statute, ordinance regulation or other legal requirement.

9.5.1.10 Failure to submit progress schedule updates as required by the Contract Documents.

9.5.1.12 Failure to submit a Schedule of Values that is acceptable to Architect.

Paragraph 9.6 – Progress Payments
Subparagraph 9.6.1

ADD “and Owner has approved” AFTER “the Architect has issued,” AND DELETE “and shall so notify Architect.”

Subparagraph 9.6.7

DELETE Subparagraph 9.6.7 in its entirety.

Paragraph 9.8 – Substantial Completion
Subparagraph 9.8.1

DELETE Subparagraph 9.8.1 in its entirety and, in lieu thereof, SUBSTITUTE it with the following:

9.8.1 Substantial Completion of Project shall be deemed to occur when Architect determines and Owner approves that the Work, or designated phase thereof, is sufficiently complete in accordance with the Contract Documents so Owner can occupy or utilize the Work for its intended use, and in addition, all requirements of the Contract Documents for Substantial Completion have been fulfilled.

Subparagraph 9.8.2

DELETE the words “prior to final payment.” from Subparagraph 9.8.2 and, in lieu thereof, SUBSTITUTE them with the following:

[*Substitute:*] “within 30 days of the date of Substantial Completion.”

ADD new Sub-subparagraph 9.8.2.1 as follows:

- 9.8.2.1 Definition: Contractor’s comprehensive list of items to be completed or corrected shall be referred to as the “Punch List.” The Punch List shall be prepared by Contractor on the form provided in Division 1 Section “Contract Closeout”, or in an electronic format acceptable to Architect, (i.e., Bluebeam, PlanGrid, etc.)

Subparagraph 9.8.5

ADD new Sub-subparagraph 9.8.5.1 as follows:

- 9.8.5.1 Owner’s retainage upon Substantial Completion shall be the greater of (a) 5% of the Contract Sum adjusted by Change Orders, or (b) the amount necessary to protect Owner’s interests, a minimum of 150% of Architect’s estimated cost to complete or correct Work at the time of Substantial Completion.

Paragraph 9.10 - Final Completion and Final Payment

Subparagraph 9.10.2

ADD after the words “shall become due until” in the first sentence, “Owner approves such payment and”

ADD new Subsections (7) and (8) to the end of the first sentence:

[Add:] “(7) Final as-built prints of record drawings marked by Contractor with record information as set forth in the Contract Documents, and (8) A final sworn statement from Contractor duly executed and acknowledged showing all subcontractors to be fully paid and similar final sworn statements from subcontractors and, where appropriate, from sub-subcontractors.

Subparagraph 9.10.4

ADD the following new Sub-subparagraphs:

- 9.10.4.5 Latent failures of Contractor to comply with the requirements of the Contract Documents.
- 9.10.4.6 Architect’s fees resulting from re-inspections due to Contractor’s failure to satisfactorily, fully and finally complete the Work or legal and accounting costs and expenses arising therefrom.
- 9.10.4.7 Architectural fees for services (60) days after the date of Substantial Completion shall be borne by the responsible contractor.

ARTICLE 10 - PROTECTION OF PERSONS AND PROPERTY

Paragraph 10.1 Safety Precautions and Programs

ADD new Subparagraph 10.1.1 as follows:

10.1.1 Contractor shall prepare and submit an infectious disease action plan defining safety measures to be instituted by Contractor on the Project site. This action plan shall comply with all current CDC recommendations and with all state and federally mandated protocols and requirements (hereinafter "Recommendations and Mandates"), and shall be submitted with the initial paperwork required prior to the issuance of Notice to Proceed, and shall be updated, as necessary, as those Recommendations and Mandates change.

Paragraph 10.2 - Safety of Persons and Property

Subparagraph 10.2.5

DELETE "(other than damage or loss insured under property insurance required by the Contract Documents)"

ADD new Subparagraph 10.2.9 as follows:

10.2.9 Contractor shall promptly report in writing to Owner and Architect all accidents, other than minor accidents for which no medical treatment is required, arising out of, or in connection with the Work which cause death, personal injury or property damage, giving full details and statements of any witnesses whether or not Owner has actual knowledge of the accident. In addition, if death or serious personal injuries or serious damage are caused, the accident shall be reported immediately by telephone or messenger to Owner and Architect.

ARTICLE 11 - INSURANCE AND BONDS

DELETE All Paragraphs for Article 11 in their entirety, and in lieu thereof, ADD 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 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:

11.1.1.1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;

11.1.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;

11.1.1.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

- 11.1.1.4 Claims for damages insured by usual personal injury liability coverage;
- 11.1.1.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- 11.1.1.6 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;
- 11.1.1.7 Claims for bodily injury or property damage arising out of completed operations; and
- 11.1.1.8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

AMPLIFY Paragraph 11.1 – Contractor's Liability Insurance by ADDING the following:

[Add:] During the term of the Contract, Contractor and each Subcontractor shall, as a minimum, and at their own cost and expense, maintain the following insurances in a company or companies properly licensed in the state where the Project is located, and carrying an A.M. Best rating of no less than A-, and an A.M. Best financial size category of VI or better. Contractor shall assess its own risks with regard to the Project, and if it deems appropriate and/or prudent, shall maintain higher limits and/or broader coverages.

1. Employer's Liability (Worker's Compensation) Insurance

- (a) Statutory:
Amounts and coverage as required by law.
- (b) Employer's Liability:
\$1,000,000 each accident.
\$1,000,000 disease, policy limit.
\$1,000,000 disease, each employee.

2. Comprehensive General Liability Insurance including coverage for direct operations, sublet work, demolition and wrecking, elevators and contractor liability with limits not less than stated below:

- (a) Bodily Injury Liability including Personal Injuries:
\$1,000,000 each occurrence.
- (b) Property Damage Insurance: Shall include explosion, collapse and underground.
\$1,000,000 each occurrence.
\$2,000,000 general aggregate.
\$2,000,000 products & completed operations aggregate
\$1,000,000 personal & advertising injury
- (c) Products and completed operations insurance shall be maintained for a minimum period of 2 years after final payment, and Contractor shall continue to provide

evidence of such coverage to Owner on an annual basis during the aforementioned period.

- (d) Contractual Liability
 - 1. Bodily Injury - \$1,000,000 each occurrence.
 - 2. Property Damage - Included each occurrence and aggregate.

Note: The required aggregate limits are applicable to this Contract and not the total business operation of Contractor.

- 3. Automobile Liability Insurance including coverage for owned, non-owned and hired vehicles with limits not less than stated below:

- (a) Bodily Injury Liability:
 - \$1,000,000 each occurrence.
- (b) Property Damage Liability:
 - \$1,000,000 each occurrence.
 - \$2,000,000 aggregate.

- 4. Umbrella Excess Liability providing additional limits for the Commercial General Liability, Automobile Liability, and Employers' Liability coverages.

- (a) Bodily Injury
 - \$4,000,000 each occurrence.
 - \$4,000,000 aggregate.
- (b) Property Damage
 - Included each occurrence.
 - Included aggregate.

Note: As with general liability, the aggregate limits are applicable to this Contract and not the total business operation of Contractor.

- 6. Owner and Architect, and their officers, employees, agents and volunteers shall all be carried as additional insureds.
- 7. The Contract carrier shall provide Owner not less than 30 days written notice of cancellation.
- 8. Contractor shall provide to Owner, no later than 30 days prior to expiration, a replacement Certificate for the succeeding 12-month period.

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. Where Owner's and Contractor's/Subcontractor's policies each apply, Contractor's/Subcontractor's policies shall be considered primary.

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 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 and Architect, 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 Contractor or contractors making the claim shall be responsible for paying all costs not covered because of any deductibles required by the insurer or insurers underwriting the builder's risk policy defined in Paragraph 11.3.1. The amount of the deductible for the builder's risk policy is \$5,000, which shall be on a per occurrence basis.

11.3.1.4 Owner's builder's risk policy will cover a claim for stored materials, or materials in transit, up to a maximum value of \$250,000. Within 60 days of award of the Contract, Contractor shall be responsible to advise Owner in writing if this amount is insufficient to protect Owner against this potential risk, so that Owner can revise their policy accordingly. If Contractor fails to notify Owner in writing, the amount stated above shall be deemed to be sufficient.

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.

11.3.1.6 Owner shall limit the deductible for the builder's risk policy defined in this Paragraph 11.3.1.

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. The Owner's loss of use damages are limited to the amount paid under the Loss of Use policy.

- 11.3.3.1 The Contractor and all subcontractors shall be named as additional insureds on the Owner's Loss of Use policy.
- 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. 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 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 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. 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 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 Contractor shall provide bonds in accordance with the provisions of the Public Works Contracts' Bond Law of 1967, 8 P.S. Section 191 and in so doing shall provide:

- (a) A Performance Bond at one hundred percent (100%) of the Contract amount, conditioned upon the faithful performance of the Contractor in accordance with the plans, specifications and conditions of the Contract. Such bond shall be solely for the protection of the Owner or assignee as authorized in accordance with the provisions of Paragraph 13.2.1 herein.
- (b) A Payment Bond at one hundred percent (100%) of the Contract amount. Such bond shall be solely for the protection of claimants supplying labor or materials to the Contractor or to any of their Subcontractors in the prosecution of the Work provided for in the Contract Documents and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the Work. "Labor or Materials" shall include public utility services

and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

- (c) A Maintenance Bond providing additional coverage in the full amount of the Contract Sum insuring against defective or inferior materials or workmanship which may develop during the period of one (1) year from the date of Final Completion of the Project.
- (d) Each of such bonds required by the Contract Documents shall be executed by one or more surety companies legally authorized to do business in West Virginia and not otherwise objectionable to the Owner. The surety of whom the Contractor has purchased bonds shall have an "A-" or better rating, plus a financial rating of VI or better with the A. M. Best's Company (Key Rating Guide – Latest Edition) and listed in the Department of Treasury Circular 570, with a capacity which meets or exceeds the contract amount. The bond shall be payable to the Owner or assignee as provided for in Paragraph 13.2.1

Both a Performance Bond and Payment Bond shall be required as specified under Article 7 of the Supplementary Instructions to Bidders.

- 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

Paragraph 12.2 - Correction of Work

Subparagraph 12.2.2 After Substantial Completion

Sub-subparagraph 12.2.2.1

DELETE the following from the first sentence and, in lieu thereof, SUBSTITUTE the following:

[Delete:] "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"

[Substitute:] "if, within one (1) year after the date of Final Completion of the Work or within one (1) year from the date of Partial Occupancy or Use of designated phases thereof (whichever shall first occur) or after the date for commencement of warranties"

DELETE sub-subparagraph 12.2.2.3 in its entirety and, in lieu thereof, SUBSTITUTE the following new sub-subparagraph:

- 12.2.2.3 In the event any Work, material or equipment is replaced or repaired as a consequence of latent defects or failure to meet the terms of the Contract Documents, all warranties with respect to such Work, material or equipment replaced or repaired shall continue following repair or replacement of such Work, material or equipment for an additional period equivalent to the original period of warranty for such Work, material or equipment.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

Paragraph 13.1 – Governing Law

DELETE the remainder of the sentence after the word “located”.

REPLACE “the Federal Arbitration Act” with “unless the parties mutually agree otherwise, the rules of the American Arbitration Association”

Subparagraph 13.3.2

REPLACE “Owner, Architect or Contractor” with “Owner or Architect”

Paragraph 13.4 - Tests and Inspections

Subparagraph 13.4.1

DELETE Subparagraph 13.4.1 in its entirety and, in lieu thereof, SUBSTITUTE the following new subparagraph:

13.4.1 If the Contract Documents or any laws, statutes, ordinances, building codes, rules, regulations or orders of any governmental body or public or quasi-public authority having jurisdiction over the work or the site of the Project require any portion of the Work to be inspected, tested or approved, Contractor shall give Architect and Owner timely notice thereof so Architect and Owner may observe such inspection, test or approval.

Subparagraph 13.5 – Interest

DELETE Subparagraph 13.5 in its entirety.

ADD new Paragraph 13.6 as follows

Paragraph 13.6 Tax Credits

13.6 The Project, or part or all of the Project or Work, may qualify for tax benefits arising from or related to the energy efficiency, energy efficiency rating, or energy efficiency score assigned to the Project or Work by the relevant taxing authority. These tax benefits include, without limitation, Internal Revenue Code §179.D and other federal, state or local tax benefits, as established by those authorities having jurisdiction over such benefits (hereinafter the “Tax Benefits”). These Tax Benefits may take various forms, including without limitation, accelerated depreciation for commercial, multifamily, and publically owned facilities. The Tax Benefits may be assignable by Owner to third parties, as provided for by the statutes, rules and regulations governing such Tax Benefits. Notwithstanding any other language contained in any of the Contract Documents, no Contractor or subcontractor shall, under any circumstances, apply for, request, receive, accept or retain any Tax Benefit arising from or related to the Project, Work, or any part of the Project or Work.

ADD new Paragraph 13.8 as follows:

Paragraph 13.8 Tax Credits

- 13.8 The Project, or part or all of the Project or Work, may qualify for tax benefits arising from or related to the energy efficiency, energy efficiency rating, or energy efficiency score assigned to the Project or Work by the relevant taxing authority. These tax benefits include, without limitation, Internal Revenue Code §179.D and other federal, state or local tax benefits, as established by those authorities having jurisdiction over such benefits (hereinafter the "Tax Benefits"). These Tax Benefits may take various forms, including without limitation, accelerated depreciation for commercial, multifamily, and publically owned facilities. The Tax Benefits may be assignable by Owner to third parties, as provided for by the statutes, rules and regulations governing such Tax Benefits. Notwithstanding any other language contained in any of the Contract Documents, no Contractor or subcontractor shall, under any circumstances, apply for, request, receive, accept or retain any Tax Benefit arising from or related to the Project, Work, or any part of the Project or Work.

ARTICLE 14 - TERMINATION OR SUSPENSION OF THE CONTRACT

Paragraph 14.1 - Termination by the Contractor

DELETE Paragraph 14.1 in its entirety.

Paragraph 14.2 - Termination by the Owner for Cause

Subparagraph 14.2.1

DELETE Subparagraph 14.2.1 in its entirety and, in lieu thereof, SUBSTITUTE the following:

14.2.1 Owner may terminate the Contract if Contractor:

- .1 shall institute proceedings or consent to proceedings requesting relief or arrangement under the Federal Bankruptcy Code or any similar or applicable federal or state law; or if a petition under any federal or state bankruptcy or insolvency law is filed against Contractor and such petition is not dismissed within sixty (60) days from the date of said filing; or if Contractor admits in writing, its inability to pay its debts generally as they become due, or if it makes a general assignment for the benefit of its creditors, or if a receiver, liquidator, trustee or assignee is appointed on account of its bankruptcy or insolvency; or if a receiver of all or any substantial portion of Contractor's properties is appointed.
- .2 abandons the Work; or if it fails, except in cases for which an extension of time is provided, to prosecute promptly and diligently the Work or to supply enough properly skilled workers or proper materials for the Work;
- .3 submits an Application for Payment, sworn statement, affidavit or document of any nature whatsoever which is intentionally falsified;
- .4 fails to make prompt payment to subcontractors or for materials or labor or otherwise breaches their obligations under any subcontract with a subcontractor; or if a materialman's lien or notice of lien is filed against any party of the Work or the site of the Project and not promptly bonded or insured over by Contractor in a manner satisfactory to Owner;

- .5 disregards any laws, statutes, ordinances, rules, regulations or orders of any governmental body or public or quasi-public authority having jurisdiction of the Work or the site of the Project;
- .6 otherwise violates any provision of the Contract Documents; then Owner, upon the occurrence of the events described in clauses .1 through .5 above, without prejudice to any right or remedy available to Owner under the Contract Documents or at law or in equity may, after giving Contractor and its surety under the Performance Bond and under the Labor and Material Payment Bond, if any, seven (7) days written notice, terminate the employment of Contractor and, in accordance with the Uniform Commercial Code, may enforce a Security Agreement by taking possession of and using all or any part of Contractor's materials, equipment, supplies and other property of every kind used by Contractor in the performance of the Work in the completion of the Work. If requested by Owner, Contractor shall remove any part or all of its equipment, machinery and supplies from the site of the Project within seven (7) days from the date of such request, and in the event of Contractor's failure to do so, Owner shall have the right to remove or store such equipment, machinery and supplies at Contractor's expense. In case of such termination, Contractor shall not be entitled to receive any further payment for Work performed by the Contractor through the date of termination. Owner's right to terminate Owner-Contractor Agreement pursuant to this Subparagraph 14.2.1 shall be in addition to and not in limitation of any rights or remedies existing hereunder or pursuant hereto or at law or in equity.

Subparagraph 14.2.4

DELETE Subparagraph 14.2.4 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph 14.2.4:

- 14.2.4 If the unpaid balance of the Contract Sum exceeds all costs to Owner of completing the Work, then Contractor shall be paid for all Work performed by Contractor to the date of termination. If such costs to Owner of completing the Work exceed such unpaid balance, Contractor shall pay the difference to Owner upon Owner's demand. The costs to Owner of completing the Work shall include, but not be limited to, the cost of any additional architectural, legal, managerial and administrative services required thereby, any costs incurred in retaining another contractor or other subcontractors, any additional interest or fees which Owner must pay by reason of a delay in completion of the Work, attorneys' fees and expenses and any other damage, costs and expenses Owner may incur by reason of completing the Work. The amount, if any, to be paid to Contractor shall be certified by Architect upon application, in the manner provided in Paragraph 9.4, and this obligation for payment shall survive the termination of the Contract.

Paragraph 14.3 - Suspension by Owner for Convenience

Subparagraph 14.3.1

ADD the following new sentence to the end of Subparagraph 14.3.1:

[Add:] Any suspension by Owner for convenience does not constitute grounds for termination by Contractor under Section 14.1.

Subparagraph 14.4.3

DELETE the remainder of the subparagraph after the words “for Work properly executed.”

ADD new Paragraph 14.5 as follows:

Paragraph 14.5 Indemnification

14.5 Contractor and each subcontractor shall indemnify and hold harmless, Owner, its officers, directors, agents, and employees, Architect and its officers, directors, agents and employees, and each of them, as “indemnitee”, from and against any and all fines, penalties, losses, costs, damages, injuries, expenses, claims, liens, encumbrances and/or liabilities (individually and collectively referred to herein as “liabilities”) arising out of, or resulting from (a) any claim for any service or goods allegedly infringed, including without limitation any patent, copyright, trademark, service mark, trade secret or other legally-protected proprietary right; and (b) the Work as described in the Contract Documents, including, but not limited to, any claim of injury (including death) to persons or damage to property, and contamination of, or any adverse impact upon the environment, except to the extent that any such claim is finally found by the court or arbitration entity by which such claims are finally resolved, to have arisen from the willful misconduct of the indemnitee. A finding of “willful misconduct” as against one indemnitee shall not nullify the indemnification provided to any other indemnitee who is not found to have performed any willful misconduct. As used herein, “willful misconduct” shall mean gross negligence or any intentional criminal act. Owner shall notify Contractor of any suit or legal proceeding asserting a claim for liabilities. Contractor and subcontractors shall, at no cost to any indemnitee, defend and/or settle such suit or legal proceeding, or judgment, including any appellate proceeding, asserting a claim for liabilities. Contractor and subcontractors shall pay any costs and legal fees incurred by any indemnitee in connection with any liabilities, whether or not litigation is actually commenced, and shall keep indemnities informed as to the progress of the defense. If requested by an indemnitee, Contractor and subcontractors shall afford indemnities the opportunity to participate in the defense or settlement of any claim. With regard to any claim of infringement as referred to herein, Contractor and Subcontractors shall procure the right to continue using the services or goods, or at the indemnities’ option, replace or modify the services or goods to make them non-infringing services or goods.

ARTICLE 15 – CLAIMS AND DISPUTES

Paragraph 15.1 - Claims

Subparagraph 15.1.1 - Definition

ADD the following new sentence to the end of Subparagraph 15.1.1:

[Add:] All Claims as defined in §15.1.1, and any other claim or dispute between Contractor and Owner or Architect, including without limitation those claims set forth in §15.3, shall be governed by this Article 15.

Subparagraph 15.1.3 – Notice of Claims

Sub-subparagraph 15.1.3.1

DELETE “, where the condition giving rise to the claim is first discovered prior to expiration of the period of correction of the Work set forth in Section 12.2.2,” from the first sentence.

Subparagraph 15.1.5 – Claims for Additional Time

ADD the following new Sub-subparagraphs:

15.1.5.3 In planning the construction schedule within the agreed Contract Time, it shall be assumed that Contractor has anticipated the amount of adverse weather conditions normal to the site of the Work for the season or seasons of the year involved. Only those weather delays attributable to other than normal weather conditions will be considered.

15.1.5.4 The following Standard Baseline of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location and will constitute the baseline for monthly weather time evaluations. “Standard Baseline” is defined as the normal number of calendar days for each month during which construction activity exposed to weather conditions is expected to be prevented and suspended by cause of adverse weather. “Adverse Weather” is defined as the occurrence of one or more of the following conditions within a twenty-four (24) hour day that prevents construction activity exposed to the weather conditions or access to the site:

1. Precipitation (rain, snow, or ice) in excess of 1/10 inch liquid measure.
2. Temperatures that did not rise above that required for the day’s construction activity, if such temperature requirement is specified or accepted as standard industry practice.
3. Sustained wind in excess of 25 mph.

15.1.5.5 Contractor’s Construction Schedule must reflect the following anticipated adverse weather delays in all weather dependent activities.

Standard Baseline

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
14	7	7	8	8	7	4	5	4	4	5	7

15.1.5.6 Upon acknowledgement of the Notice to Proceed and continuing throughout the Contract, Contractor will record in a daily log the occurrence of adverse weather and resultant impact to normally scheduled Work. Actual adverse weather delay days must prevent work on critical activities for 50 percent or more of Contractor's scheduled work day in order to constitute an adverse weather delay day. The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in a previous month), be calculated chronologically from the first to the last day of each month, and be recorded as full days. If the number of actual adverse weather delay days exceeds the number of days anticipated in sub-subparagraph 15.1.5.5 above, Architect will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days, and issue a no-cost Change Order for additional days, to be executed by Owner, Architect and Contractor. This no-cost Change Order shall be the sole remedy for delays associated with weather.

Subparagraph 15.1.7 – Waiver of Claims for Consequential Damages

DELETE Subparagraph 15.1.7, including both sub-subparagraphs, in its entirety, and in lieu thereof, SUBSTITUTE the following subparagraph:

15.1.7 Contractor waives Claims against Owner for consequential damages arising out of or relating to this Contract, including but not limited to waiving any claims for damages incurred by Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit.

Subparagraph 15.1.8 – Owner as a Contracting Body

ADD new Subparagraph 15.1.8 as follows:

15.1.8 Contractor agrees and acknowledges that Owner is a “contracting body” under the Public Works Contractors’ Bond Law of 1967 (the “Bond Law”), and the Work on the Project is public construction and not subject to the filing of Mechanics Liens, and further agrees to provide and specify in its subcontracts with subcontractors for their acknowledgment that their sole remedy against Owner exists only under the provisions of the Bond Law and in accordance with the Payment Bond.

Paragraph 15.2 – Initial Decision

Subparagraph 15.2.1

Due to the new modified language for Article 11, in first sentence of subparagraph 15.2.1 REPLACE reference to Section 11.5 to Section 11.3.

Subparagraph 15.2.8

ADD new Sub-subparagraph 15.2.8.1 as follows:

- 15.2.8.1 Contractor agrees and acknowledges that Owner is a “contracting body” under the Public Works Contractors’ Bond Law of 1967 (the “Bond Law”), and the Work on the Project is public construction and not subject to the filing of Mechanics Liens, and further agrees to provide and specify in its subcontracts with subcontractors for their acknowledgment that their sole remedy against Owner exists only under the provisions of the Bond Law and in accordance with the Payment Bond.

ADD the following new Subparagraph:

- 15.3.5 Owner shall have the right, at any time after any Claim is raised against Owner, to waive mediation or arbitration, and such election shall be binding on Contractor, and may be made by Owner at any time prior to the entry of a final award by the Arbitrator. In such event, a Claim arising under this Agreement shall be subject to a bench trial in the Court of Common Pleas of Berkeley County, West Virginia, and the parties waive the right to a jury in such proceeding. If any claim is brought by any Contractor as against Architect only, Architect shall have the right, at any time after any Claim is raised against Architect, to waive mediation or arbitration, and such election shall be binding on Contractor, and such election may be made by Architect at any time prior to the entry of a final award by the Arbitrator. In such event, any such Claim shall be subject to a bench trial in the Court of Common Pleas of Berkeley County West Virginia, and the parties waive the right to a jury in such proceeding.

Paragraph 15.4 – Arbitration

ADD the following new Sub-sub paragraphs as follows:

- 15.4.1.2 In any arbitration proceeding commenced pursuant to this Paragraph 15.4, the parties shall be entitled to conduct pre-hearing discovery for a period of ninety (90) days, which discovery may include depositions, written interrogations not to exceed forty (40) in number (inclusive of subparts) and written requests for the inspection and reproduction of relevant documents or tangible things. Responses to written interrogations and document requests shall be served within thirty (30) days of service thereof. With respect to expert testimony and discovery related thereto, applicable West Virginia Rules of Civil Procedure shall apply. The arbitrator(s) shall have the authority to issue appropriate orders to enforce the parties’ entitlement to discovery hereunder and, upon disobedience of any such order, may prohibit the disobedient party from introducing in evidence designated documents, things, or testimony.
- 15.4.1.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

- 15.4.1.4 Contractor acknowledges that the mediation and arbitration procedures outlined in paragraphs 15.3 and 15.4 hereof shall be Contractor's exclusive remedies with regard to claims against Owner or Architect, subject to Owner's and Architect's rights to elect to forego mediation or arbitration.
- 15.4.1.5 Should any Contractor bring a claim against Owner or Architect, then, unless the fact finder finds that Contractor had a good faith basis for the claim against Owner or Architect, Contractor shall be liable to Owner and Architect for all of Owner's and Architect's costs in having all such claims dismissed, or in defending all such claims, or both. These costs shall include all of Owner's or Architect's costs, including without limitation personnel costs, attorney's fees, expert fees, travel expenses, and the like.

ADD new Paragraph 15.5 as follows:

15.5 - Scheduling and Completion

15.5.1 By execution of the Agreement, Contractor agrees to the following:

- .1 Owner and Architect are not responsible for delays arising from or related to any act or omission of Contractor. Owner and Architect are not responsible for any costs or damages arising from or related to Contractor's coordination and scheduling of its Work. Owner and Architect are not liable for any costs or damages suffered by Contractor arising from or related to Contractor's coordination of its Work. Contractor hereby waives and releases and indemnifies Owner and Architect from any liability and damages arising from or related to coordination by Contractor of the Work.
- .2 Architect and Owner and their representatives shall not be liable to Contractor for any increased costs or damages for defective work. These costs shall include all of Owner's or Architect's costs, including without limitation personnel costs, attorney's fees, expert fees, travel expenses, and the like.
- .3 It is agreed by Contractor that no dispute shall delay completion of the Work, which shall be continued by Contractor pending final resolution of a claim, including without limitation, judicial proceedings.
- .4 It is agreed by the parties to this Contract that the intent of this Paragraph 15.5.1 is to benefit Owner and Architect, and Owner's interests, and that the provisions of the Contract Documents.
- .5 Contractor specifically releases, foregoes and waives any claims against Owner or Architect for extended overhead, delay damages, "impact" damages, loss of efficiency, loss of productivity, lost profit, or any other similar form of loss, damage or compensation.

15.5.2 Claims Related to Project Delay, Acceleration, Hindrances, Loss or Productivity or Similar Damages

As stated above in Subparagraphs §3.3.4, §6.1.3 and §8.3.3, Contractor shall not pursue any claim for money damages against Owner, Architect, Owner (or their respective directors, employees or agents) in the event of any project delay, acceleration, hindrances, loss of productivity or similar damages

END OF SECTION 000750



AIA[®] Document G706A[™] – 1994

Contractor's Affidavit of Release of Liens

PROJECT: <i>(Name and address)</i>	ARCHITECT'S PROJECT NUMBER:	OWNER: <input type="checkbox"/>
TO OWNER: <i>(Name and address)</i>	CONTRACT FOR: CONTRACT DATED:	ARCHITECT: <input type="checkbox"/> CONTRACTOR: <input type="checkbox"/> SURETY: <input type="checkbox"/> OTHER: <input type="checkbox"/>

STATE OF:
COUNTY OF:

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

EXCEPTIONS:

SUPPORTING DOCUMENTS ATTACHED HERETO:

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

CONTRACTOR: *(Name and address)*

BY:

(Signature of authorized representative)

(Printed name and title)

Subscribed and sworn to before me on this date:

Notary Public:

My Commission Expires:

PROJECT NUMBER: 2202-2904-001

DATE: FEBRUARY 24, 2022

GEOTECHNICAL INVESTIGATION
BERKELEY COUNTY HEALTH DEPARTMENT
MARTINSBURG, WEST VIRGINIA

Prepared For:

MR. KEVIN WHITNEY
CRABTREE, ROHRBAUGH & ASSOCIATES
250 WEST MAIN STREET, SUITE 200
CHARLOTTESVILLE, VA 22902

Presented By:



P.O. Box 519
Nitro, WV 25143

Confidential

Via Electronic Mail

February 24, 2022

Mr. Kevin Whitney
Project Manager
Crabtree, Rohrbaugh & Associates
250 West Main Street, Suite 200
Charlottesville, VA 22902

**RE: GEOTECHNICAL INVESTIGATION FOR THE BERKELEY COUNTY HEALTH DEPARTMENT
MARTINSBURG, BERKELEY COUNTY, WEST VIRGINIA**

Dear Mr. Whitney,

TERRADON is pleased to submit this electronic copy of our geotechnical investigation for the proposed building at the aforementioned facility located in Martinsburg, West Virginia. We conducted the field investigation on January 26, 2022, after receiving our notice to proceed and allowing time for clearing the site for utilities.

Presented in this report are the results of the drilling program and our engineering evaluation for the proposed building addition. As discussed in the Conclusions and Recommendations section of this report, this site is suitable for this proposed project provided our recommendations are followed.

We appreciate the opportunity to be of service to you. Please contact us if you have any questions, need further information, or if we can be of service to you in any way.

Sincerely,



Prepared By:
Chris Hancock
Geotechnical Project Manager

Approved By:
Joe Carte, P.E.
Senior Geotechnical Engineer



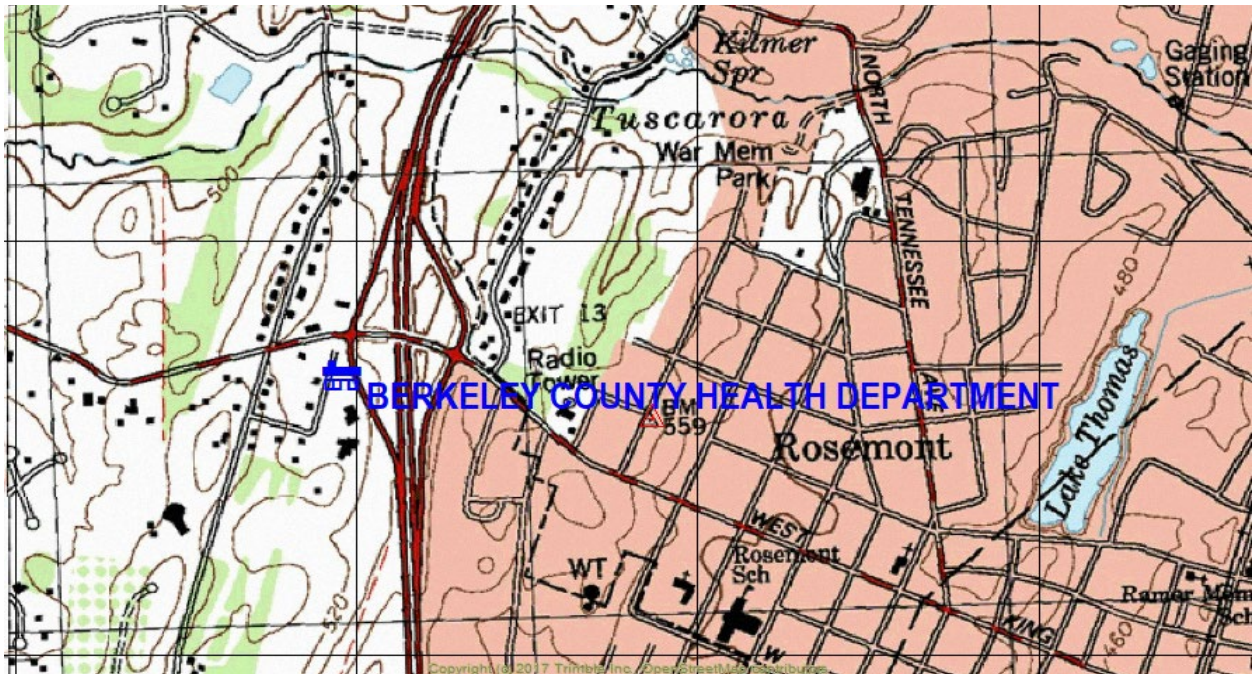
Enclosures

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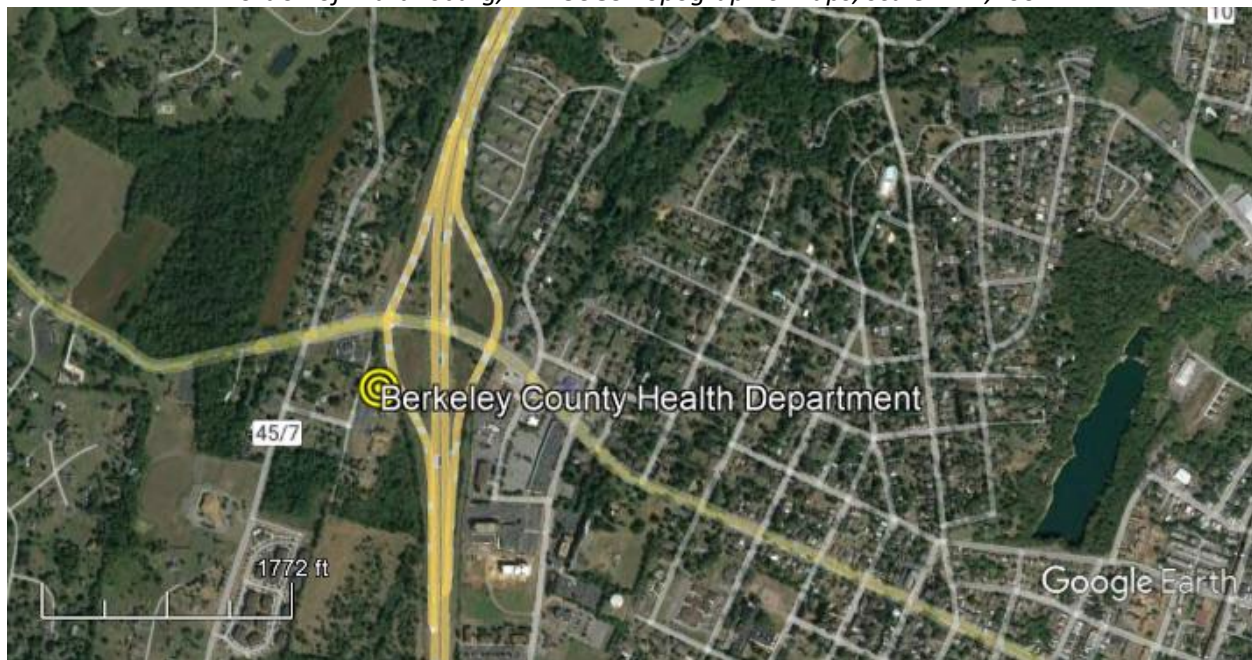
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1 PROJECT DESCRIPTION

The project site is located along Waverly Court Martinsburg, Berkeley County, West Virginia. Below is an excerpt of the Martinsburg, WV USGS map and a Google Earth screenshot for the general site location. Reference is made to the boring location plan presented in **Appendix 1** for details of the specific site location.



Portion of Martinsburg, WV USGS Topographic Maps, scale 1:14,400



Portion of Google Earth, scale about 1:14,400

The purpose of this investigation was to determine the general subsurface conditions at the site through a geotechnical field investigation and engineering evaluation relative to the foundation design and site development for the proposed office facility. Our investigation was performed according to currently accepted engineering practice, and an engineering technician was present during the drilling operation as required by IBC 2015.

We understand that the proposed project consists of a two-story structure, adjacent to the existing structure connected by a covered walkway. The proposed structure is approximately 74.5 feet x 78.6 feet, or 5,850 SF per floor. Loading information from the structure was not available at the time this report was written.

1.1 General Geologic Setting

This site is located entirely in the Valley and Ridge Physiographic Province. The geologic formations that crop out near the area are of the Elbrook Formation. The Elbrook consists of thin-bedded blue-gray argillaceous limestone and platy shale, with some siliceous limestone and minor dolomite. The project site is within the plunging Exit 13 Anticline.

The site is located on relatively flat land and includes the existing facility and paved parking. Adjacent to the existing structure, but within the footprint of the proposed structure, is a communications tower. The surface soil is residual in nature having been weathered from the parent Limestone bedrock beneath. Martinsburg is known for karst topography such as pinnacle bedrock and sinkholes; however, no significant karst features were encountered at this site.

2 FIELD AND LABORATORY INVESTIGATIONS

2.1 Subsurface Investigation

TERRADON planned this geotechnical investigation based on the preliminary site plan furnished to us by Crabtree, Rohrbaugh & Associates. A TERRADON engineering technician located the borings in the field based on this site plan. A total of ten (10) soil borings were drilled, seven (7) of which were drilled within the structure's footprint and three (3) near the proposed stormwater management area. The attached Boring Location Plan shows the location of the borings.

The borings were drilled with a track-mounted drill rig on January 26, 2022. The borings were drilled through the soil using hollow-stem augers and sampled using a split-spoon sampler. The engineering technician logged each boring as it progressed, and visually described soil types and recorded layer depths. The groundwater level was noted when encountered during the drilling operation.

Standard Penetration Testing (SPT) was performed at 2.5-foot intervals from the ground surface to 10 feet and at 5-foot intervals thereafter. Standard penetration tests are performed by driving a 2-inch O.D. split- spoon sampler into the soil with a 140-pound hammer, dropping a distance of 30 inches. The sampler is driven a distance of 18 inches in three (3) increments of 6 inches. The number of blows required to drive the sampler through each of the 6-inch increments was recorded with soil description on the driller's log. The number of blows required to drive the sampler the last 12 inches is termed the Standard Penetration Number or "N" value presented in blows per foot. The "N" value gives an indication of the firmness or density of the soil. The "N" values are presented on the Final Boring Log as "N". The procedure described above is according to ASTM D1586. In conjunction with obtaining the "N" value, 1-3/8 - inch diameter soil samples were also obtained. The samples were placed in airtight glass jars and were delivered to TERRADON's laboratory.

NQ2 sized (2-inch) rock core samples were recovered in some of the borings to verify rock conditions at the site. This process recovers a continuous bedrock sample by coring with a double-tube core barrel and diamond coring bit. The Percent Core Recovery (REC) and Rock Quality Designation (RQD) were recorded for each core run, which gives a general indication of the competency and weathering of the bedrock. The REC is a measurement of the recovered core sample in relation to the cored length. RQD is similar to recovery, except only intact core pieces of length 4 inches or greater are counted. The samples were placed in a wooden core box and were delivered to TERRADON's laboratory.

All samples are retained for six months and are available for review at our office. A geotechnical engineer visually classified the soil and rock samples and generalized the layer depths based on the drilling inspector's logs and the samples. The engineer's interpretation of the subsurface conditions is presented on the Final Boring Logs, presented in **Appendix 2**.

2.2 Laboratory Testing

The soil samples were delivered to TERRADON Corporation of Poca, West Virginia for soil laboratory testing. The laboratory testing consisted of eleven (11) Natural Moisture Content, two (2) Unconfined Compressive Strength (UCS) tests of intact rock core, and three (3) Classifications including Atterberg Limits Analysis and Grain Size Analysis. These tests were performed in accordance with the appropriate ASTM standard, current edition. These tests were selected to provide classification of the soil found at the site, and the strength of the bedrock.

The natural moisture content was determined on soil samples representative of the conditions currently existing at the site. The classification tests identify the soils classification according to at least two (2) classification systems, Unified and AASHTO. This aids in interpolating various engineering and performance properties of the soils. The results of the soil tests are presented in **Appendix 4**.

3 INVESTIGATIVE RESULTS

3.1 Soil Conditions

Generally, the borings encountered residual material consisting of SILTY CLAY with rock fragments and some sand. Bedrock consisted of LIMESTONE.

The soil encountered was generally Reddish-Brown SILTY CLAY (residuum) ranged in depth from the ground surface to 11 feet. This stratum was augured and split-spoon sampled, exhibiting N-values ranging from 11 to refusal, (greater than 50 blows per 6 inches) which correlates to a stiff to hard consistency.

Bedrock consisted of LIMESTONE and was encountered at depths ranging from 1 to 11.0 feet below the ground surface. This stratum was rock cored in Borings B-6 and B-7 with recovery ranging between 50% to 75% and an RQD ranging from 20% to 59%. This recovery indicates possible voids within the limestone. The RQD indicates a very poor to fair rock quality. A more detailed description and core photographs of this stratum can be found in **Appendix 2**.

Groundwater was not encountered during this investigation, and is likely within the bedrock unit(s) below. It must be noted that the site's underlying groundwater level can change seasonally with rainfall amounts.

3.2 Laboratory Test Results

Eleven (11) samples were selected for moisture content testing, two (2) for UCS of rock samples, and three (3) for classification testing. The tested samples had moisture contents of 14.6 to 28.4 The tabulated moisture contents can be found in **Appendix 4**. The results of the classification tests are presented in the following table.

BORING	DEPTH (ft.)	USCS	AASHTO	MOISTURE CONTENT (%)	UCS (PSI)
B-3	5.0-6.5	CL	A-6	21.6	NA
B-6	0-1.5	CL	A-7-6	17.8	NA
B-7	0-1.5	CL	A-7-6	16.2	NA
B-6	7.8-8.2				9,290
B-7	10.0-10.4				9,460

4 CONCLUSION AND RECOMMENDATIONS

Based on the results of the subsurface investigation, our engineering analysis, and our understanding of the proposed building, the site should perform satisfactorily provided these recommendations are followed as discussed below.

4.1 Subsurface Conclusions

As discussed above, the borings encountered relatively shallow soil consisting of SILTY CLAY with rock fragments and some sand. Following the SILTY CLAY was bedrock consisting of LIMESTONE. The limestone bedrock encountered was hard. We believe that some small clay-filled fractures were encountered within the limestone, but no large voids were noted by the drillers. The SILTY CLAY is suitable for support of the multi-story building foundations and floor slabs.

4.2 Foundation Recommendation

Based on very stiff SILTY CLAY as a bearing surface, we recommend conventional spread footings be used for this project. The recommended bearing capacity for this site is 3,000 psf, with a recommended depth of 30 inches for exterior foundations. If bedrock is encountered shallower than 30 inches, the footing can step up to avoid chipping hard rock. Spread footings should be sized according to loading conditions and bearing capacity but should be a minimum width of 24 inches. Exterior canopy column footings, if utilized, should be size for uplift and be a minimum of 3.5 feet x 3.5 feet and be a minimum of 30 inches deep. Interior column footings for a 2-story building is usually a minimum of 4 feet x 4 feet and can be placed just below the floor slab or on a thickened floor slab.

Foundation excavations should not be exposed to the weather for an extended period. Foundation construction should be planned to eliminate exposure to rain and freezing temperatures. Pouring footing within one day after reaching their final grade is recommended. If the footing trench becomes wet and soft, the soft material should be excavated and replaced with Class I stone and compacted. An engineering technician should examine all foundation sub-grades and report his findings to the engineer before proceeding with the footings to ensure the intent of these recommendations is being met.

4.3 Floor Slabs

After stripping the surface soil, the floor slabs can be supported on the existing SILTY CLAY (with dry bed material). The top 1-foot should be recompacted and proof-rolled as recommended below. Floor slab thickness and reinforcement should be sized based on the anticipated floor loadings, crack control, and joint spacing, but 4 inches is typical unless there is unusual loading. A minimum of 4-inches of compacted sand or crushed stone (dry bed material) and a vapor barrier should underlie the building floor

slabs.

4.4 Site Development

Based on the preliminary grading plan it would appear that approximately 6' of fill will be required beneath the northern portion of the building. Additionally, a stormwater management area on the northern portion of the property will require some excavation. The limestone bedrock encountered at the project site is hard and should not be considered rippable, therefore excavation is not advised. The stormwater management area should be located to where soil cover will provide adequate storage and infiltration. We recommend that test pits be excavated by a contractor to finalize the location of the stormwater area prior to construction.

The natural soils encountered at the site should be suitable for excavating and filling. The entire site should be stripped of existing vegetation, including the root zone, and demolition debris from the removal of the existing tower. Then the entire site should be proof-rolled using a tandem-axle dump truck or vibratory roller to check for soft areas. Any soil material filled at the site should be clean material deposited in maximum 8-inch lifts and be compacted to a minimum 98% maximum dry density as determined by the Standard Proctor Test, ASTM D698 at a moisture content of ± 3 percent of optimum. Soil fill shall have a maximum particle size of 2-inches. All soil fill material should be tested to confirm compaction. Compaction should be monitored using a field nuclear density gauge. Each lift should be frequently tested to determine when additional passes or moisture corrections are necessary. Any material not promptly responding to the compaction effort should be undercut and replaced.

After grading, the site should be proof rolled with a loaded tandem truck or heavy vibratory compactor. Any soft areas should be removed, the soils either dried and re-compacted or removed from the site and suitable material compacted in place. Any such material filled at the site should be compacted as recommended above. The surface soils are susceptible to softening and weakening with increased moisture. Due to this issue, the water ingress into the soils must be controlled. We recommend sealing all disturbed areas with a smooth roller prior to any rain events. This shall be performed in such a manner to promote drainage and reduce water ingress. The subgrade soils should be sloped at 2% to provide positive site drainage beneath the dry bed, sidewalks, and pavement areas. This will maintain constant moisture, improve site drainage, and aid in development during wet weather.

All temporary trench excavations over 4-feet deep must be constructed according to OSHA guidelines, requiring shoring, or sloping according to the guidelines. Trench backfill should be placed and compacted as recommended above.

4.5 Pavement Recommendations

Based on the subsurface conditions encountered, TERRADON recommends the following for minimum pavement sections for this project. Due to the moisture sensitive nature of the surface soils encountered, it is important to provide proper subgrade drainage in conjunction with the stone aggregate as stated below.

- Medium-Duty: 1.5" Asphalt surface; 2" Asphalt Base; 6" Aggregate base
- Heavy-Duty: 2" Asphalt surface; 4" Asphalt Base; 8" Aggregate base

Prior to paving the entire pavement area should be proof rolled with a loaded tandem axle dump truck or smooth-drum roller and observed by an engineering technician for deflection in excess of 1-inch. Where excessive deflection is observed the area should be undercut a maximum of 2-feet, backfilled and compacted as stated above.

4.6 Seismic Considerations

Based on the International Building Code 2015, the Seismic Use Group is II for this structure. Based on our general knowledge of the area, the subsurface material encountered and the limited investigation, a Site Class of C is recommended. The Design Spectral Response Acceleration Parameters are estimated to be 0.105 and 0.061 for the SD_5 and the SD_1 , respectively. Based on these parameters, the Seismic Design Category is considered as A.

5 LIMITATIONS

5.1 Variations

Geotechnical engineers can examine, test, and report only that information obtained from site reconnaissance and subsurface investigation (borings, pits, or other methods). While TERRADON endeavors to obtain the most relevant information considering both the site and project, conditions can be different (sometimes significantly) between data points and times. Therefore, if during construction, any subsurface conditions are encountered that seem inconsistent with this report, contact us so that we may inspect the site, evaluate the conditions, and make any modifications in the recommendations that are appropriate based on discovered conditions.

5.2 Other Interpretations

The conclusions and recommendations submitted in this report apply to the proposed project only as defined at the time of the investigation. They are not applicable to on-site subsequent or changed construction, or adjacent/nearby projects. In the event that conclusions or recommendations based on this report and relating to any other details or projects are made by others, such conclusions and recommendations are not the responsibility of TERRADON Corporation.

5.3 Warranty

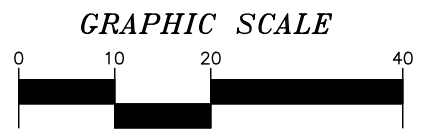
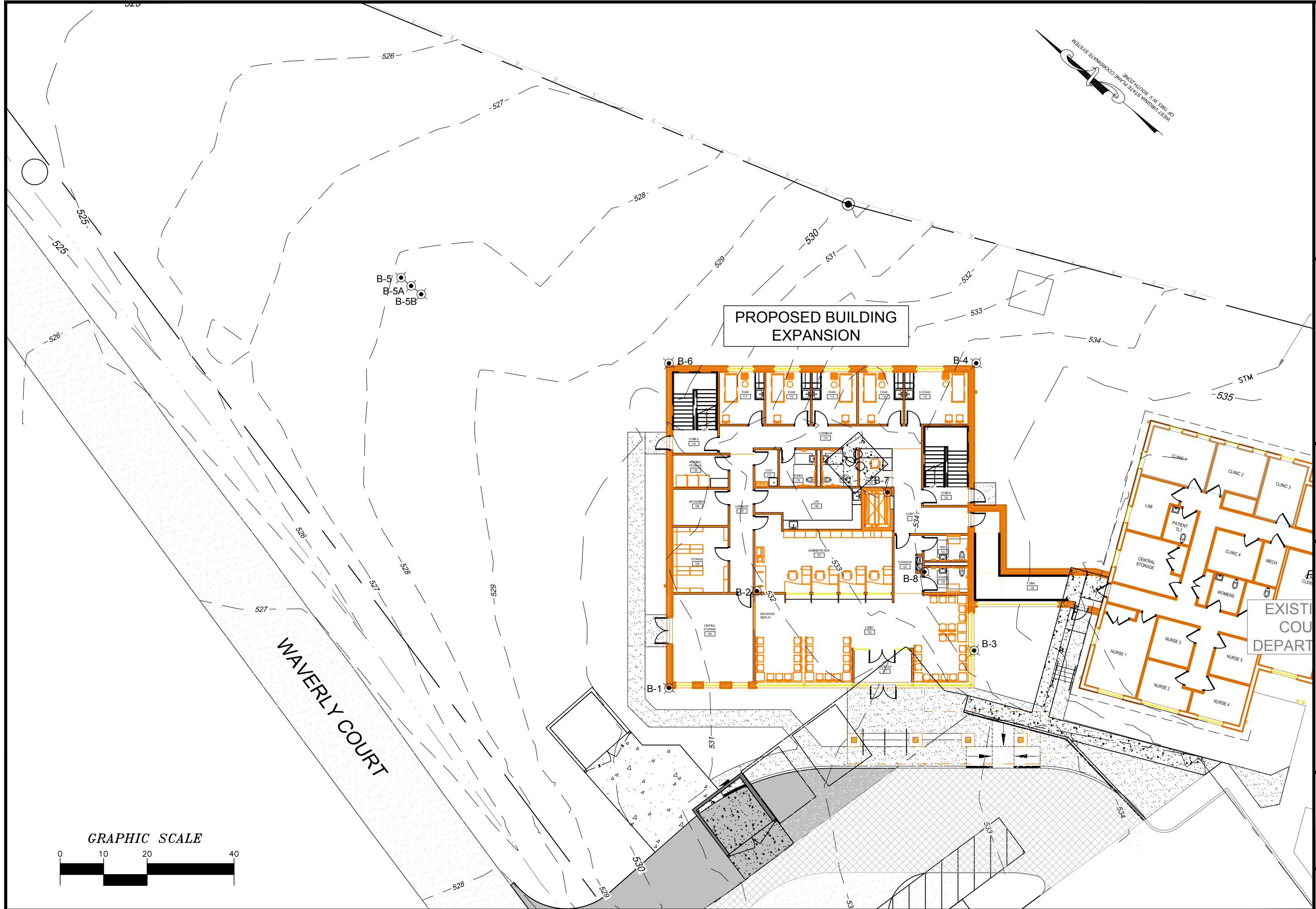
In performing our professional services, we have used that degree of care and skill ordinarily exercised under similar circumstances by members of the profession. No other warranty, expressed or implied, is made.

5.4 Review

TERRADON should be given the opportunity to review the construction plans and specifications prior to bidding the project to ensure the intent of the recommendations are met.

APPENDIX 1

PLOT DATE : 2/24/2022 2:57 PM P:\2022\2202-2904-001 - CRABTREE - BERKELEY COUNTY HEALTH DEPT\60-GEO-ENV\GEO TECH\DWG\CRABTREE - BERKELEY CO. HEALTH DEPT.- GRADING PLAN.DWG



NO.	DATE	REVISION

TERRADON
 Engineering • Surveying • Land Planning
 Testing & Inspection
 (904) 755-8291 www.terradon.com

PRELIMINARY

BERKELEY CO. HEALTH DEPT.
 MARTINSBURG, WEST VIRGINIA

GEOTECHNICAL INVESTIGATION
 BORING LOCATION PLAN

Project No:	2202-2904-001
Drawn:	TERRADON
Designed:	TERRADON
Checked:	
Approved:	
Scale:	1" = 20'
Date:	2/15/2022
CAD File #:	BOR_LOC

AP.1

APPENDIX 2



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TEST BORING LOG

BORING NUMBER **B-1**

PROJECT No. 2202-2904-001

PROJECT Berkely County Health Dept.

LOCATION Martinsburg, WV

LOCATION As Shown

DATE START/FINISH 1/26/22

CONTRACTOR/DRILLER D.L. Martin

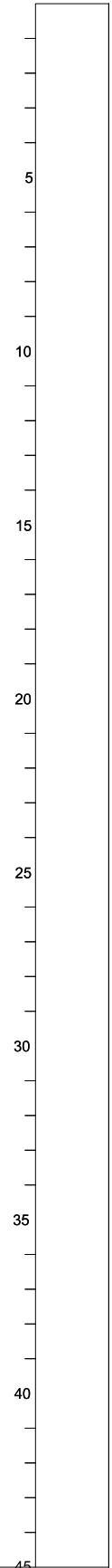
OFFSET

GROUND WATER Not Encountered

ELEVATION 530.6'

Depth	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
0.3	Surface Soil				
2.75	Red brown SILTY CLAY, Little Fine Grained Sand, little Cobbles, Moist, Very Stiff	17	S-1	5-7-10	12
	Auger Refusal @ 2.75'	R	S-2	50/3"	0

DEPTH
5
10
15
20
25
30
35
40
45





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TEST BORING LOG

PROJECT No. 2202-2904-001

DATE START/FINISH 1/26/22

GROUND WATER Not Encountered

PROJECT Berkely County Health Dept.

LOCATION Martinsburg, WV

CONTRACTOR/DRILLER D.L. Martin

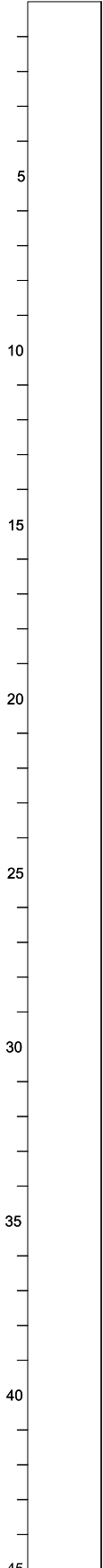
BORING NUMBER **B-2**

LOCATION As Shown

OFFSET

ELEVATION 531.9'

DEPTH	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
0.3	Surface Soil	R	S-1	5-8-50/1"	12
	Red brown SILTY CLAY, Little Fine Grained Sand, little Cobbles, Moist, Very Stiff to Hard	58	S-2	18-18-40	18
6.5	Moist at @ 5.5'	19	S-3	6-8-11	11
	Auger Refusal @ 6.5'				





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PROJECT Berkely County Health Dept.

BORING NUMBER **B-3**

PROJECT No. 2202-2904-001

LOCATION Martinsburg, WV

LOCATION As Shown

DATE START/FINISH 1/26/22

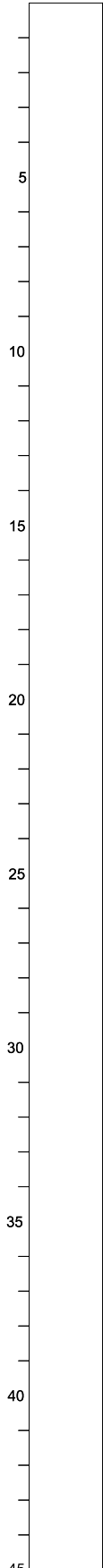
CONTRACTOR/DRILLER D.L. Martin

OFFSET

GROUND WATER Not Encountered

ELEVATION 534.2'

DEPTH	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
0.3	Surface Soil	16	S-1	6-8-8	16
		24	S-2	14-11-13	18
5	Red brown SILTY CLAY, Little Fine Grained Sand, Moist, Stiff to Very Stiff				
		13	S-3	6-6-7	18
	Moist at @ 5.0'	17	S-4	7-8-9	14
10					
11.0		42	S-5	7-8-34	8
	Gray gravel size LIMESTONE Rock Fragments				
15	Auger Refusal @ 14.6'	R	S-6	50/1"	0/
20					
25					
30					
35					
40					
45					





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TEST BORING LOG

BORING NUMBER **B-4**

PROJECT No. 2202-2904-001

PROJECT Berkely County Health Dept.

DATE START/FINISH 1/26/22

LOCATION Martinsburg, WV

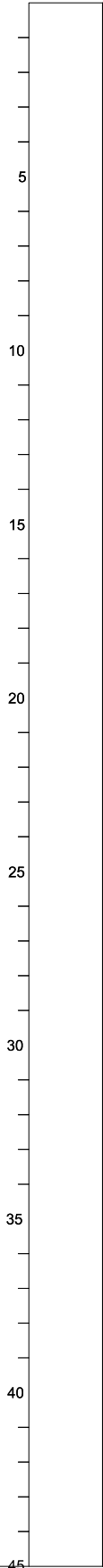
GROUND WATER Not Encountered

CONTRACTOR/DRILLER D.L. Martin

LOCATION As Shown

OFFSET
ELEVATION 534.2'

DEPTH	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
0.3	Surface Soil	R	S-1	6-50/1"	6
	Red brown SILTY CLAY, Little Fine Grained Sand, Moist, Hard	34	S-2	5-14-20	9
5	Auger Refusal @ 5.0'	R	S-3	50/0"	0
10					
15					
20					
25					
30					
35					
40					
45					





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PROJECT Berkely County Health Dept.

BORING NUMBER **B-5**

PROJECT No. 2202-2904-001

LOCATION Martinsburg, WV

LOCATION As Shown

DATE START/FINISH 1/26/22

CONTRACTOR/DRILLER D.L. Martin

OFFSET

GROUND WATER Not Encountered

ELEVATION 528.1'

Depth	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
0.2	Surface Soil				
1.0	Red brown SILTY CLAY, Little Fine Grained Sand, Moist, Hard Auger Refusal @ 1.0'				
5					
10					
15					
20					
25					
30					
35					
40					
45					



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TEST BORING LOG

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PROJECT Berkely County Health Dept.

BORING NUMBER B-5A

PROJECT No. 2202-2904-001

LOCATION Martinsburg, WV

LOCATION As Shown

DATE START/FINISH 1/26/22

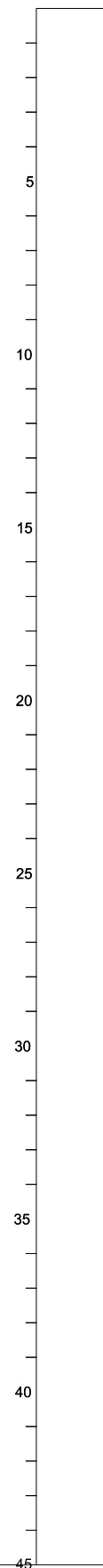
CONTRACTOR/DRILLER D.L. Martin

OFFSET

GROUND WATER Not Encountered

ELEVATION 528.1'

DEPTH	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
0.2	Surface Soil				
3.0	Red brown SILTY CLAY, Little Fine Grained Sand, Moist, Hard				
	Auger Refusal @ 3.0'				
5					
10					
15					
20					
25					
30					
35					
40					
45					





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TEST BORING LOG

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PROJECT Berkely County Health Dept.

BORING NUMBER B-5B

PROJECT No. 2202-2904-001

LOCATION Martinsburg, WV

LOCATION As Shown

DATE START/FINISH 1/26/22

CONTRACTOR/DRILLER D.L. Martin

OFFSET

GROUND WATER Not Encountered

ELEVATION 528.2'

DEPTH	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
0.2	Surface Soil				
2.0	Red brown SILTY CLAY, Little Fine Grained Sand, Moist, Hard				
	Auger Refusal @ 2.0'				
5					
10					
15					
20					
25					
30					
35					
40					
45					



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PROJECT Berkely County Health Dept.

BORING NUMBER B-6

PROJECT No. 2202-2904-001

LOCATION Martinsburg, WV

LOCATION As Shown

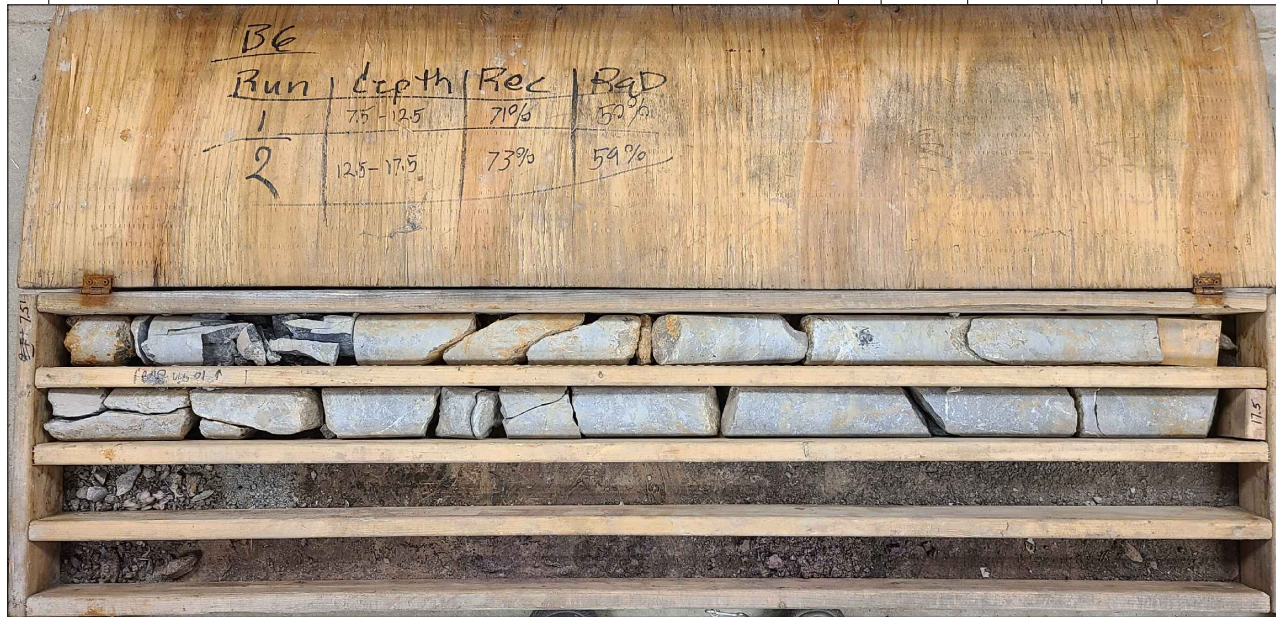
DATE START/FINISH 1/26/22

CONTRACTOR/DRILLER D.L. Martin

OFFSET
ELEVATION 529.5'

GROUND WATER Not Encountered

DEPTH	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
0.3	Surface Soil	11	S-1	3-3-8	18
	Red brown SILTY CLAY, Little Fine Grained Sand, Moist, Stiff to Very Stiff Moist @ 5.0'	17	S-2	5-9-8	12
5					
7.5		28	S-3	8-6-22	18
	Gray LIMESTONE, Hard, moderately Fractured, slightly to moderately Weathered, ~45* Dip	R	R-1	71%/50%	
10					
15		R	R-2	73%/59%	
17.5	Boring Terminated @ 17.5 ft				





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TEST BORING LOG

PROJECT No. 2202-2904-001

DATE START/FINISH 1/26/22

GROUND WATER Not Encountered

PROJECT Berkely County Health Dept.

LOCATION Martinsburg, WV

CONTRACTOR/DRILLER D.L. Martin

BORING NUMBER B-7

LOCATION As Shown

OFFSET

ELEVATION 533.9'

DEPTH	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
0.3	Surface Soil	27	S-1	8-10-17	15
	Red brown SILTY CLAY, Little Fine Grained Sand, Moist, Hard	17	S-2	16-32-31	18
5.5	Moist @ 5.0'	R	S-3	50/3"	3/
	Gray LIMESTONE, Hard, moderately to highly Fractured, moderately Weathered, ~45* Dip	R	R-1	50%/20%	
		R	R-2	75%/33%	
15.5	Boring Terminated @ 15.5 ft				





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PROJECT Berkely County Health Dept.

BORING NUMBER B-8

PROJECT No. 2202-2904-001

LOCATION Martinsburg, WV

LOCATION As Shown

DATE START/FINISH 1/26/22

CONTRACTOR/DRILLER D.L. Martin

OFFSET

GROUND WATER Not Encountered

ELEVATION 534.1'

DEPTH	Depth	Description, Remarks	N	Sample Type/No	Blows/6in REC/RQD	REC RQD
	0.3	Surface Soil	17	S-1	12-11-6	18
		Red brown SILTY CLAY, Little Fine Grained Sand, Moist, Very Stiff to Hard	16	S-2	34-19-14	18
	5.0	Moist @ 5.0'	R	S-3	26-50/1"	5/
		Auger Refusal @ 5.6'				



APPENDIX 3



CLIENT: CRABTREE, ROHRBAUGH & ASSOCIATES
PROJECT: BERKELEY HEALTH DEPARTMENT
DATE: February 15, 2022

LOCATION Latitude: 39.463688°
 Longitude: -77.991643°

SEISMIC CONSIDERATIONS

SITE CLASS DEFINATION 1613.3.2 (ASCE 7, Chapter 20)

C Very Dense Soil and Soft Rock

MAXIMUM SPECTRAL RESPONSE

from NEHRP $S_{S=}$ 0.131
 from NEHRP $S_{1=}$ 0.054

ADJUSTMENTS FOR SITE COEFFICIENTS

Equation 16-37, p 387, Table 1613.3.3(1), p 387	$S_{ms} = F_a S_s$	1.2	X	0.131	=	0.157
Equation 16-38, p 387, Table 1613.3.3(2), p 387	$S_{m1} = F_v S_1$	1.7	X	0.054	=	0.092

DESIGN ACCELERATION PARAMETERS

Equation 16-39, p 387	$S_{DS} = 0.6666667$	X	0.157	=	0.105
Equation 16-40, p 387	$S_{D1} = 0.6666667$	X	0.092	=	0.061

SEISMIC DESIGN CATEGORY

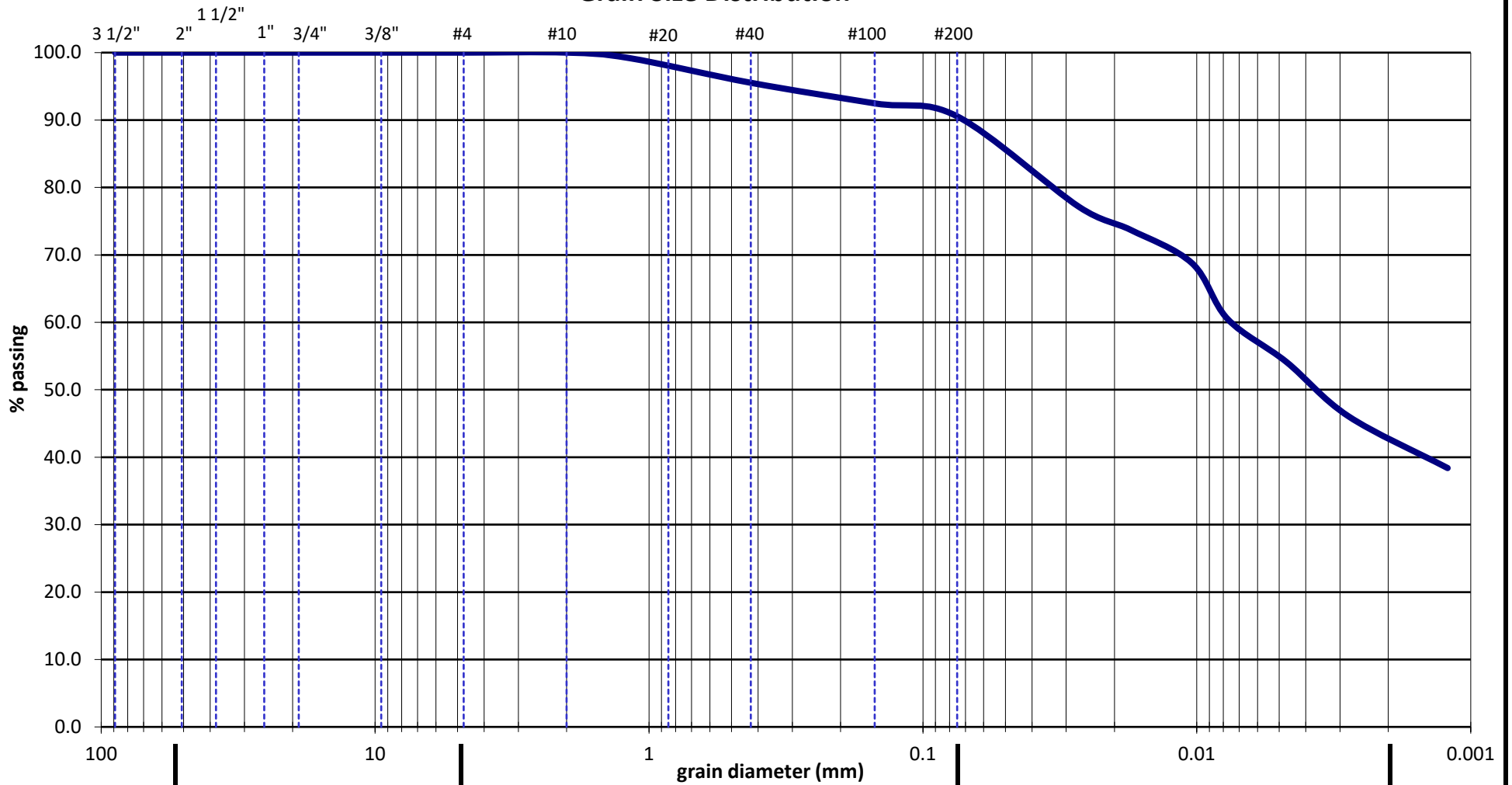
Table 1604.5, p 357	—————>	Occupancy Category	II
		For Normal Occupancy	
Table 1613.3.5(1), P 398	—————>	Seismic Design	A
Table 1613.3.5(2), p 398	—————>	Seismic Design	A

For Seismic Design Category C,D,E,F, consideration for

1. Slope instability Not applicable due to drelatively flat site
2. Liquefaction Clayey Soils not subject to liquefaction
3. Differential Settlement Relatively uniform soils not subject to differential settlement
4. Surface displacement due to faulting or lateral spreading. No known faults nearby

APPENDIX 4

Grain Size Distribution



% Cobbles 0	Percent Gravel 0	Percent Sand 9	Percent Silt 48	% Clay 42
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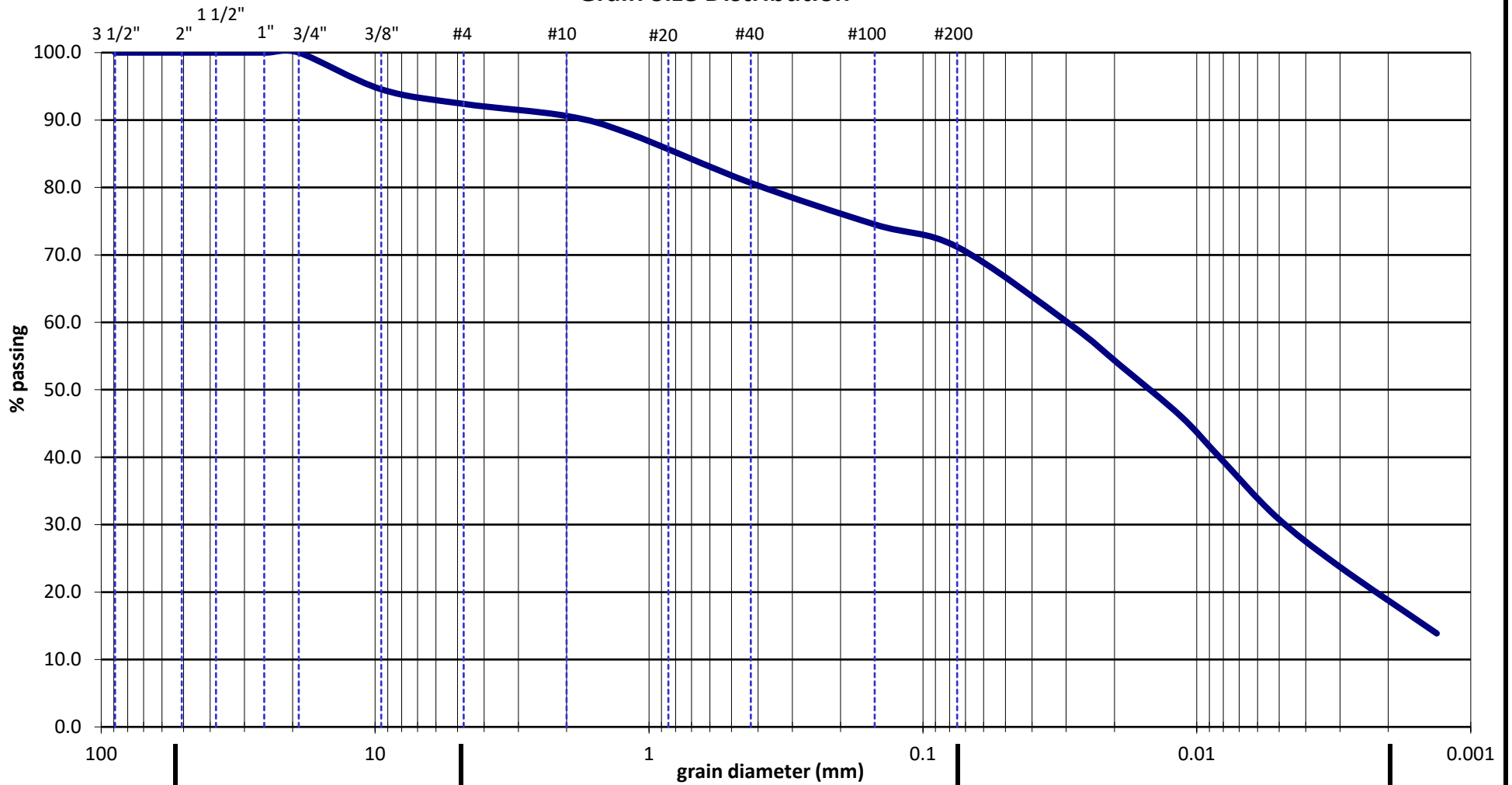
Project: BERKELEY HEALTH DEPT.
 Project Number: 2202-2904-001
 Date: 2/12/2022
 Lab Number: BDH-H-001
 Location: B-3, 5'-6.5'



TERRADON

Liquid Limit: 36
 Plasticity Index: 16
 Moisture Content (%): 22%
 Classification (AASHTO): A-6(15)
 Classification (USCS): CL

Grain Size Distribution



% Cobbles 0	Percent Gravel 8	Percent Sand 21	Percent Silt 53	% Clay 18
----------------	---------------------	--------------------	--------------------	--------------

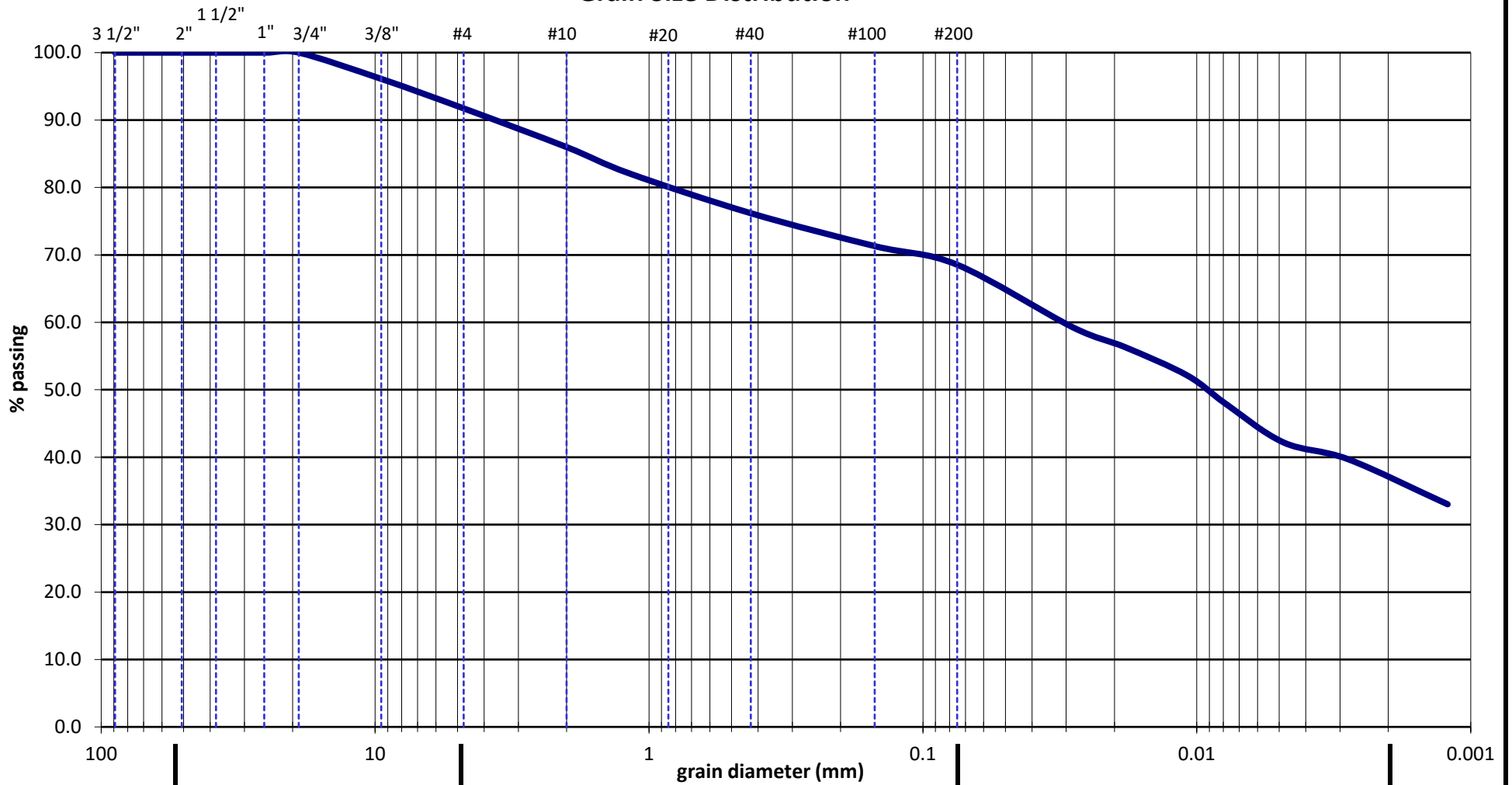
Project: BERKELEY HEALTH DEPT.
 Project Number: 2202-2904-001
 Date: 2/12/2022
 Lab Number: BDH-H-002
 Location: B-6, 0'-1.5'



TERRADON

Liquid Limit: 30
 Plasticity Index: 11
 Moisture Content (%): 18%
 Classification (AASHTO): A-7-6(6)
 Classification (USCS): CL

Grain Size Distribution



% Cobbles 0	Percent Gravel 8	Percent Sand 23	Percent Silt 32	% Clay 36
----------------	---------------------	--------------------	--------------------	--------------

Project: BERKELEY HEALTH DEPT.
 Project Number: 2202-2904-001
 Date: 2/12/2022
 Lab Number: BDH-H-001
 Location: B-7, 0'-1.5'



TERRADON

Liquid Limit: 43
 Plasticity Index: 22
 Moisture Content (%): 16%
 Classification (AASHTO): A-7-6(14)
 Classification (USCS): CL



Mailing Address:
P.O. Box 519
Nitro, WV 25143

Shipping Address:
Rock Branch Industrial Park
409 Jacobson Drive
Poca, WV 25159

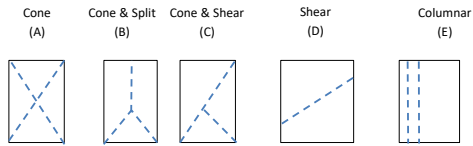
Phone: (304)755-8291
Fax: (304)755-2636
www.terraddon.com

ROCK CORE COMPRESSIVE STRENGTH TEST REPORT

Client: CRA Project Number: 2202-2904-001
 Project Name: BERKELEY COUNTY HEALTH DEPT. Date Tested: 2/15/2022
 Sample Description: GREY LIMESTONE

Flatness of Sample: Flat Specified Strength: N/A
 Surface Straightness: Straight Temperature: N/A

Sample Type: Cylinders Cubes Prisms
 Sample Size: 4"X8" 2"X4" 2"X2" 3"X3"



Rock Core Number	B-6	B-7			
	7.8-8.2	10-10.4			
Laboratory Number	BHD-UCS-001	BHD-UCS-002			
Length (in.)	3.742	3.905			
Length (in.)	3.745	3.913			
Length (in.)	3.755	3.934			
Average Length (in.)	3.747	3.917			
Diameter/Width (in.)	1.977	1.982			
Diameter/Width (in.)	1.976	1.983			
Diameter/Width (in.)	1.969	1.991			
Average Diam/Width (in.)	1.974	1.985			
Area (Sq. In ²)	3.060	3.096			
Total Load (lbs.)	28700	29400			
Comp. Strength (psi)	9370	9490			
Correction Factor	0.99	1.00			
Adjusted Strength (psi)	9290	9460			
Adjusted Strength (ksf)	1330	1360			
Break Type	A	E			

Remarks: _____

Broke By: BEN DOUGLAS

Reviewed By: CHRIS HANCOCK
Geotechnical Project Manager

SECTION 011000 - SUMMARY OF WORK

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Temporary Facilities & Controls" for requirements for temporary utilities, support facilities, and security and protection.

1.3 PROJECT INFORMATION

- A. The following is information related to the Project.
 - 1. Project Location: Health Department Addition and Alterations
122 Waverly Court, Martinsburg, West Virginia 25403
 - 2. Owner: Berkeley County Council, West Virginia
400 W. Stephen Street, Martinsburg, West Virginia 25401
 - 3. Project Consultants:
 - a. Mechanical, Electrical and Plumbing Engineers
CMTA
315 W Broad St, Suite 400, Richmond, VA 23220
 - b. Structural Engineer
Dunbar
110 Third St NE, Charlottesville, VA 22092
 - c. Civil Engineer
Terradon
425 N. Jefferson St, Lewisburg, WV 24901

1.4 WORK COVERED BY CONTRACT DOCUMENTS

- A. The Project consists of selective demolition of portions of the existing Berkeley County Health Department and construction of an addition and alterations for a new health department for Berkeley County, West Virginia.

Generally, the new construction consists of load bearing wood framed walls, manufactured wood joist and plywood decks, wood roof trusses, masonry veneer, exterior composite metal wall panel and formed metal trim, composite asphalt shingles and standing seam metal roofing, aluminum storefront systems, casework and interior finishes along with the specified mechanical, electrical, plumbing and fire protection systems.

- B. The Contract Documents, dated April 22, 2022 were prepared for the Project by Crabtree, Rohrbaugh & Associates, 250 West Main Street, Charlottesville, VA. 22902, phone: (434) 975-7262.

1.5 CONTRACTS

- A. The Project will be constructed under a single prime-contracting contract arrangement.

CONTRACT NAME	CONTRACT NUMBER	ABBREVIATION
1. General Construction	3402-1	GC

The Owner reserves the right to award additional prime contracts or to perform construction operations with its own forces on portions of the Project.

- B. Contract Work: The Work of this contract is summarized as follows:
 - 1. **General Construction Contract 3402-1:** The General Construction Contract includes all work of this Project.

1.9 PRIME CONTRACTORS USE OF PREMISES

- A. General: During the construction period the contractor shall have full use of the premises for construction operations, including use of the site. The Contractor's use of the premises is limited only by the Owner's right to perform work or to retain other contractors on portions of the Project.
- B. Use of the Site: Limit use of the premises to work in areas indicated. Confine operations to areas within contract limits indicated. Do not disturb portions of the Site beyond the areas in which the Work is indicated.
 - 1. Owner Occupancy: Allow for Owner occupancy of the existing building and use by the public.
 - 2. Driveways and Entrances: Keep driveways and entrances serving the premises clear and available to the Owner, the Owner's employees, users, deliveries and emergency vehicles at all times. Do not use these areas for parking or storage of materials. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on-site.

1.10 OCCUPANCY REQUIREMENTS

- A. Partial Owner Occupancy: The Owner may occupy and place installed equipment in completed areas of the building prior to Substantial Completion. Such placing of equipment and partial occupancy shall not constitute acceptance of the total Work.
 - 1. The Architect will prepare a Certificate of Substantial Completion for each specific portion of the Work to be occupied prior to Owner occupancy.
 - 2. Obtain a Certificate of Occupancy from local building officials prior to Owner occupancy.
 - 3. Prior to partial Owner occupancy, mechanical and electrical systems shall be fully operational. Required inspections and tests shall have been successfully completed. Upon occupancy, the Owner will operate and maintain mechanical and electrical systems serving occupied portions of the building.
 - 4. Upon occupancy, the Owner will assume responsibility for maintenance and custodial service for occupied portions of the building.

1.11 WORK RESTRICTIONS

- A. Work Restrictions, General: Comply with the following restrictions on construction operations.
 - 1. Comply with limitations on the use of public streets and with other requirements of authorities having jurisdiction.
- B. On-Site Work Hours: Limit on-site Work to normal business working hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, unless otherwise indicated. All Work performed during non-normal business hours must be coordinated with and approved by the Owner a minimum of 48 hours prior to the Work being performed.
- C. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by the Owner or others unless permitted under the following conditions and then only after providing temporary utility services according to requirements indicated:
 - 1. Notify the Owner not less than 72 hours in advance of proposed utility interruptions.
 - 2. Obtain the Owner's written permission before proceeding with utility interruptions.
- D. Noise, Vibration, and Odors: Coordinate operations that may result in high levels of noise and vibration, odors or other disruptions to the Owner.
 - 1. Notify the Owner not less than 48 hours in advance of proposed disruptive operations.
 - 2. Obtain the Owner's written permission before proceeding with disruptive operations.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 011000

SECTION 012500 - SUBSTITUTIONS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for handling requests for substitutions made after award of the Contract.
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Submittals" specifies requirements for submitting the Contractor's Construction Schedule and the Submittal Schedule.

1.3 DEFINITIONS

- A. The Definitions in this Article do not change or modify the meaning of other terms used throughout the Contract Documents.
- B. Substitution: Products considered to be able to perform the same function but that do not necessarily have the same design, arrangement, details, utility requirements and/or dimensions, etc.
- C. Approved Equal: Products of equivalent design, arrangement, details, utility requirements and/or dimensions, etc., produced by a manufacturer not specifically listed in the "Manufacturers" Article of a Specification Section.
 - 1. Unless otherwise noted, Approved Equal products may be included in the Bid without additional approval by the Architect.
- D. The following are not considered to be requests for substitution:
 - 1. Revisions to the Contract Documents requested by the Owner or the Architect
 - 2. The Contractor's determination of and compliance with governing regulations and orders issued by governing authorities having jurisdiction

1.4 SUBSTITUTIONS

- A. Substitution Request: The Architect will consider requests for substitutions if received within 60 days AFTER the Notice to Proceed. Requests received more than 60 days after the Notice to Proceed may be considered or rejected at the sole discretion of the Architect. The Architect

will only consider requests for substitution submitted by the Contractor. No substitution requests will be considered from manufacturer's representatives or product vendors unless submitted through the Contractor. **No substitution requests will be considered during the bid period. Bids shall be based on products from one of the manufacturers specified or an "approved equal" product.**

1. Transmit three (3) copies of each request for substitution for consideration. Requests shall be on the Substitution Request Form found at the end of this Section. Requests not meeting this procedural requirement will be returned with **no action taken**.
 2. Identify the product to be substituted in each request. Include the related Specification Section and Drawing number. Only one substitution request will be considered per Substitution Request Form.
 3. Respond to and attach all of the following items to the Substitution Request Form:
 - a. Coordination information, including a list of changes or modifications needed to other parts of the Work to accommodate the proposed substitution.
 - b. A detailed comparison of significant qualities of the proposed substitution with those of the Work specified. Significant qualities may include elements, such as performance, weight, size, durability and aesthetic effect
 - c. Product data, including drawings and descriptions of products
 - d. Samples, where applicable or requested
 - e. A statement indicating the substitution's effect on the Contractor's Construction Schedule compared to the schedule without approval of the substitution. Indicate the effect of the proposed substitution on the overall Contract Time.
 - f. Cost information, including a proposal of the net change, if any in the Contract Sum. Substitutions requests submitted more than 60 days after Notice to Proceed must be accompanied by a credit proposal.
 - g. The Contractor's certification that the proposed substitution conforms to all requirements of the Contract Documents in every respect and is appropriate for the application indicated.
 - h. The Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of the failure of the substitution to perform adequately.
 - i. The Contractor's Certification that all costs of other Prime Contractors which are covered by the substitution will be borne by the substituting Contractor.
 4. Architect's Action: The Architect will notify the Contractor of acceptance or rejection of the substitution within two (2) weeks of receipt of the substitution request. If necessary, the Architect will request additional information or documentation for evaluation within one (1) week of receipt of a request.
 - a. Use the product specified if the Architect cannot make a decision on the use of a proposed substitute within the time allocated. Following acceptance of the substitution, the Contractor shall submit related information and product data in accordance with Division 1 Section "Submittals".
 - b. No claim for additional cost or time will be considered as a result of time for considering substitutions by the Contractor.
- B. Conditions for Consideration: The Architect will receive and consider the Contractor's request for substitution when one or more of the following conditions are satisfied, as solely determined

by the Architect. Requests will be returned with **no action taken** if none of the following conditions are satisfied.

1. Extensive revisions to the Contract Documents are not required.
2. Proposed changes are in keeping with the general intent of the Contract Documents.
3. The specified product cannot be provided within the Contract Time. The Architect will not consider a substitution request if the specified product cannot be provided as a result of the Contractor's failure to pursue the Work promptly.
4. The requested substitution offers the Owner a substantial advantage, in cost, time, or energy conservation.
5. The specified product cannot receive necessary approval by a governing authority.
6. The specified product cannot be provided in a manner that is compatible with other materials and where the Contractor certifies that the substitution will overcome the incompatibility.
7. The specified product cannot be coordinated with other materials and where the Contractor certifies that the proposed substitution can be coordinated.
8. The specified product cannot provide a warranty required by the Contract Documents and where the Contractor certifies that the proposed substitution provides the required warranty.

- C. Conditions for Acceptance: Following evaluation by the Architect and in accordance with a Change Order, the Contractor may make a substitution only with the consent of the Owner.

END OF SECTION 012500

SUBSTITUTION REQUEST FORM
(Attach to all requests for substitution)

PROJECT NAME AND NUMBER

ARCHITECT



**Crabtree, Rohrbaugh & Associates
Architects**

401 East Winding Hill Road
Mechanicsburg, Pennsylvania 17055
phone: (717) 458-0272 - fax: (717) 458-0047

SECTION

PARAGRAPH

SPECIFIED ITEM

PROPOSED SUBSTITUTION

The attached includes product data, specifications, drawings, photographs, and performance and test data adequate for evaluation of the request. Applicable portions of the data are clearly identified.

The attached data also includes a description of changes to the Contract Documents which the requested substitution will require for its proper installation.

The Contractor certifies that the following paragraphs, unless modified on attachments, are correct:

1. The requested substitution does not affect the dimensions shown on the Drawings.
2. The requested substitution does not change the building design, including engineering design or detailing.
3. The requested substitution has no adverse effect (including additional scope of work or cost increase) on any other subtrades of the Work, on the Contractor's Construction Schedule or any specified warranty requirements.
4. Maintenance and service parts will be locally available for the requested substitution.
5. The requested substitution offers the Owner a substantial advantage, in cost, time, or energy conservation.

The Contractor further certifies that the function, appearance, quality and warranty of the requested substitution are equivalent or superior to those of the specified item.

CONTRACTOR'S CERTIFICATION:

Signature: _____ Date: _____

Firm: _____

Address: _____

Proposed Credit: \$ _____

Attachments:

SECTION 012600 - MODIFICATION PROCEDURES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section specifies administrative and procedural requirements for handling and processing contract modifications.
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Unit Prices" for administrative requirements governing use of unit prices.
 - 2. Division 1 Section "Submittals" for requirements for the Contractor's Construction Schedule.
 - 3. Division 1 Section "Substitutions" for administrative procedures for handling requests for substitutions.

1.3 MINOR CHANGES IN THE WORK

- A. The Architect will issue supplemental instructions authorizing minor changes in the Work, not involving adjustment to the Contract Sum or Contract Time.

1.4 CHANGE ORDER PROPOSAL REQUESTS

- A. Owner-Initiated Proposal Requests: The Architect will issue a detailed description of proposed changes in the Work that will require adjustment to the Contract Sum or Contract Time. If necessary, the description will include supplemental or revised Drawings and Specifications.
 - 1 Proposal requests issued by the Architect are for information only. Do not consider them as an instruction either to stop work in progress or to execute the proposed change.
 - 2 Within 14 calendar days of receipt of a proposal request, submit a detailed estimate of costs necessary to execute the change to the Architect for the Owner's review.
 - a. Include a list of quantities of products required and unit costs, with the total amount of purchases to be made. Where requested, furnish survey data to substantiate quantities.
 - b. Include the costs of labor and supervision DIRECTLY attributable to the requested change. The Contractor's proposal MUST include hours and applicable rates.

- c. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
- d. Include a statement indicating the effect the proposed change in the Work will have on the Contract Time.
 - 1) Perform a Time Impact Analysis to demonstrate that the adjustment to Contract Time is the net due to Contractor, and takes into account any contribution Contractor, or other Contractors, may have had.
 - a) Additional Contract Time will be approved only if either the critical path is extended and the date of Substantial Completion is delayed, or a new critical path replaces the previous critical path and the date of Substantial Completion is delayed.
 - b) Use available float before requesting an extension of the Contract Time.

B. Contractor-Initiated Proposal Requests: When latent or unforeseen conditions require modifications to the Contract, the Contractor may propose changes by submitting a detailed request for a change to the Architect.

- 1 Include a statement outlining the reasons for the change and the effect of the change on the Work. Provide a complete description of the proposed change. Indicate the effect of the proposed change on the Contract Sum and Contract Time.
- 2 Include a list of quantities of products required and unit costs, with the total amount of purchases to be made. Where requested, furnish survey data to substantiate quantities.
- 3 Include the costs of labor and supervision DIRECTLY attributable to the requested change. The Contractor's proposal MUST include hours and applicable rates.
- 4 Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
- 5 Comply with requirements in Division 1 Section "Substitutions" if the proposed change requires substitution of one product or system for a product or system specified.

1.5 CONSTRUCTION CHANGE DIRECTIVE

A. Construction Change Directive: When the Owner and the Contractor disagree on the terms of a Proposal Request, the Architect may issue a Construction Change Directive. The Construction Change Directive instructs the Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order.

- 1 The Construction Change Directive contains a complete description of the change in the Work. It also designates the method to be followed to determine a change in the Contract Sum or Contract Time.

B. Documentation: Maintain detailed records on a time and material basis of work required by the Construction Change Directive.

- 1. After completion of the change, submit an itemized account and supporting data necessary to substantiate cost and time adjustments to the Contract.

1.6 CHANGE ORDER PROCEDURES

- A. Upon the Owner's approval of a Proposal Request, the Architect will issue a Change Order for signatures of the Owner and the Contractor.

END OF SECTION 012600

SECTION 012700 - CUTTING AND PATCHING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes procedural requirements for cutting and patching.
- B. Field verify existing conditions prior to proceeding with cutting and patching. Notify the Architect in writing of any conditions that are significantly different from those indicated on the Drawings.
- C. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Project Coordination" for procedures for coordinating cutting and patching with other construction activities, and for required coordination drawings.
 - 2. Division 1 Section "Selective Demolition" for demolition of selected portions of the building.
 - 3. Division 1 Section "Project Meetings" for meeting procedures for the required Cutting and Patching Conference.
 - 4. Divisions 2 through 33 Sections for specific requirements and limitations applicable to cutting and patching individual parts of the Work.

1.3 DEFINITIONS

- A. Cutting: Removal of in-place construction necessary to permit installation or performance of other Work.
- B. Patching: Fitting and repair Work required to restore surfaces to original conditions after installation of other Work.

1.4 GENERAL

- A. Build sleeves and anchors into the Work for the proper engagement of the Work.
- B. Coordinate and provide chases, openings and recesses in new Work to avoid cutting and patching to the greatest extent possible.

- C. Perform all cutting necessary to install Work. Cutting of structural members will not be permitted except by written permission of the Architect.
- D. Repair at own expense, all surfaces cut into or damaged as a result of Work.
- E. All cutting and patching that is unnecessary, excessive or carelessly done, and cutting of new construction made necessary by ill-timed Work shall be repaired at own expense. All such repairing shall be accomplished by skilled mechanics of the proper trade and to the satisfaction of the Architect.

1.5 SUBMITTALS

- A. Cutting and Patching Proposal: Submit a proposal describing procedures at least seven (7) days prior to the required Cutting and Patching Conference described below, requesting approval to proceed. Include the following information:
 - 1. Describe the extent of cutting and patching, show how it will be performed, and indicate why it cannot be avoided.
 - 2. Describe anticipated results or changes to in-place construction. Include changes to structural elements and operating components as well as changes in the building's appearance and other significant visual elements.
 - 3. List products to be used and firms or entities that will perform the Work.
 - 4. Indicate dates when cutting and patching will be performed.
 - 5. List utility services and mechanical and electrical systems that cutting and patching procedures will disturb or affect. List services/systems that will be relocated and those that will be temporarily out of service. Indicate how long services/systems will be disrupted.
 - 6. Where cutting and patching involve adding reinforcement to structural elements, submit details and engineering calculations showing integration of reinforcement with original structure.
 - 7. Means and methods of all cutting and patching Work shall be the sole responsibility of the Contractor.
 - 8. Obtain approval of the cutting and patching proposal before cutting and patching. Approval does not waive right to later require removal and replacement of unsatisfactory Work.

1.6 QUALITY ASSURANCE

- A. Structural Elements: Do not cut and patch structural elements in a manner that could change their load-carrying capacity or load-deflection ratio.
- B. Operational Elements: Do not cut and patch operating elements and related components in a manner that results in reducing their capacity to perform as intended or that results in increased maintenance or decreased operational life or safety. Operating elements include the following:
 - 1. Primary operational systems and equipment.
 - 2. Air or smoke barriers

3. Mechanical systems, piping and ducts.
 4. Fire protection systems
 5. Control systems.
 6. Communication systems.
 7. Conveying systems
 8. Electrical wiring systems.
 9. Operating systems of special construction in Division 13 Sections.
- C. Miscellaneous Elements: Do not cut and patch miscellaneous elements or related components in a manner that could change their load-carrying capacity, that results in reducing their capacity to perform as intended, or that results in increased maintenance or decreased operational life or safety. Miscellaneous elements include, but are not limited, to the following:
1. Water, moisture, or vapor barriers.
 2. Membranes and flashings.
 3. Exterior storefront construction.
 4. Equipment supports.
 5. Piping, ductwork, vessels, and equipment.
 6. Noise and vibration control elements and systems.
- D. Visual Requirements: Do not cut and patch construction exposed on the exterior, in occupied spaces, or in other exposed to view locations in a manner, in the Architect's sole opinion, that results in visual evidence of cutting and patching or that would otherwise reduce the building's aesthetic qualities. Remove and replace construction that has been cut and patched in a visually unsatisfactory manner.
- E. Cutting and Patching Conference: Meet at the Project site with parties involved in cutting and patching, including mechanical and electrical trades. Review the previously submitted Cutting and Patching Proposal and areas of potential interference and conflict. Coordinate procedures and resolve potential conflicts before proceeding with Work.

1.7 WARRANTY

- A. Warranties: Remove, replace, patch and repair materials and surfaces cut or damaged during cutting and patching operations, by methods and with materials so as not to void existing warranties.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. General: Comply with requirements specified in other Sections.
- B. In-Place Materials: Use materials identical to in-place materials. For exposed surfaces, use materials that visually match in-place adjacent surfaces to the greatest extent possible.

1. If identical materials are unavailable or cannot be used, use materials that in the Architect's opinion, when installed, will match the visual and functional performance of in-place materials.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine surfaces to be cut and patched and conditions under which cutting and patching are to be performed.
 1. Compatibility: Before patching, verify compatibility with and suitability of substrates, including compatibility with in-place finishes or primers.
 2. Proceed with installation only after unsafe or unsatisfactory conditions have been corrected.

3.2 PREPARATION

- A. Temporary Support: Provide temporary support of Work to be cut.
- B. Protection: Protect in-place construction during cutting and patching to prevent damage. Provide protection from adverse weather conditions for portions of the Project that might be exposed during cutting and patching operations.
- C. Adjoining Areas: Avoid interference with use of adjoining areas or interruption of free passage to adjoining areas.
- D. Utility Services and Mechanical/Electrical Systems: Where services/systems are required to be removed, relocated, or abandoned, bypass such services/systems before cutting to prevent interruption to occupied areas.

3.3 PERFORMANCE

- A. General: Employ skilled mechanics and workers to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time and complete cutting and patching operations without delay.
 1. Cut in-place construction to provide for installation of other components or performance of other construction, and subsequently patch as required to restore surfaces to their original condition.
- B. Cutting: Cut in-place construction by sawing, drilling, breaking, chipping, grinding, and similar operations, including excavation, using methods least likely to damage elements retained or adjoining construction.

1. In general, use hand or small power tools designed for sawing and grinding, not hammering and chopping. Cut holes and slots as small as possible, neatly to size required, and with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use.
 2. Cut or drill finished surfaces from the exposed or finished side into concealed surfaces.
 3. Cut concrete and masonry using a cutting machine such as an abrasive saw or a diamond-core drill.
 4. For excavating and backfilling, comply with requirements in applicable Division 31 Sections where required by cutting and patching operations.
 5. For mechanical and electrical services, cut off pipe or conduit in walls or partitions to be removed. Cap, valve, or plug and seal remaining portion of pipe or conduit to prevent entrance of moisture or other foreign matter after cutting.
 6. Proceed with patching after construction operations requiring cutting are complete.
- C. Patching: Patch construction by filling, repairing, refinishing, closing up, and similar operations following performance of other Work. Patch with seams that are invisible. Provide materials and comply with installation requirements specified in other Sections.
1. Test and inspect patched areas after completion to demonstrate integrity of installation.
 2. Restore exposed finishes of patched areas and extend finish into retained adjoining construction in a manner that will eliminate evidence of patching and refinishing.
 3. Where removing walls or partitions extends one finished area into another, patch and repair floor and wall surfaces. Provide a sound, even surface of uniform color and appearance.
 - a. Where patching occurs in a smooth, painted surface, extend final paint coat over entire unbroken surface containing the patch.
 - b. Clean and properly prepare surfaces, piping, conduit, and similar features before applying paint or other finishing materials.
 - c. Restore damaged pipe covering to its original condition.
- D. Clean areas and spaces where cutting and patching are performed. Completely remove paint, mortar, oils, putty and similar materials.

END OF SECTION 012700

SECTION 012800 - FIELD ENGINEERING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. General: This Section specifies administrative and procedural requirements for field-engineering services including, but not limited to, the following:
 - 1. Professional surveying services
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Project Coordination" for procedures for coordinating field engineering with other construction activities.

1.3 QUALITY ASSURANCE

- A. Surveyor Qualifications: Engage a land surveyor registered in West Virginia, to perform required land-surveying services.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Verify layout information shown on the Drawings in relation to the property survey and existing benchmarks before proceeding to lay out the Work. Locate and protect existing benchmarks and control points. Preserve permanent reference points during construction.
 - 1. Do not change or relocate benchmarks or control points without prior written approval. Promptly report lost or destroyed reference points or requirements to relocate reference points because of necessary changes in grades or locations.
 - 2. Promptly replace lost or destroyed Project control points. Base replacements on the original survey control points.

- B. Establish and maintain a minimum of two (2) permanent benchmarks on the site, referenced to data established by survey control points.
 - 1. Record benchmark locations with horizontal and vertical data on Project Record Documents.
- C. Existing Utilities and Equipment: The existence and location of underground and other utilities and construction indicated as existing are not guaranteed. Before beginning sitework, investigate and verify the existence and location of underground utilities, including private utilities, and other construction. If the location of known or suspected underground utilities cannot be verified, notify the Owner and Architect.
 - 1. Prior to construction, verify the location and invert elevation at points of connection of sanitary sewer, storm sewer, and water-service piping.

3.2 PERFORMANCE

- A. Work from lines and levels established by the property survey. Establish benchmarks and markers to set lines and levels at each story of construction and elsewhere as needed to locate each element of the Project. Calculate and measure required dimensions within indicated or recognized tolerances. Do not scale drawings to determine dimensions.
 - 1. Advise entities engaged in construction activities of marked lines and levels provided for their use.
 - 2. As construction proceeds, check every major element for line, level, and plumb.
- B. Surveyor's Log: Maintain a surveyor's log of control and other survey work. Make this log available for reference.
 - 1. Record deviations from required lines and levels, and advise the Architect when deviations that exceed indicated or recognized tolerances are detected. On Project Record Drawings, record deviations that are accepted and not corrected.
 - 2. Upon completion of foundation walls, major site improvements, and other work requiring field-engineering services, prepare a certified survey showing dimensions, locations, angles and elevations of construction and sitework.
- C. Site Improvements: Locate and lay out site improvements, including pavements, stakes for grading, fill and topsoil placement, utility slopes, and invert elevations.
- D. Building Lines and Levels: Locate and lay out batter boards for structures, building foundations, column grids and locations, floor levels, and control lines and levels required for mechanical and electrical work.
- E. Existing Utilities: Furnish information necessary to adjust, move or relocate existing structures, utility poles, lines, services or other appurtenances located in or affected by construction. Coordinate with local authorities having jurisdiction.

END OF SECTION 012800

SECTION 012900 - APPLICATIONS FOR PAYMENT

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section specifies administrative and procedural requirements governing the Contractor's Applications for Payment.
 - 1. Coordinate the Schedule of Values and Applications for Payment with the Contractor's Construction Schedule, Submittal Schedule, and List of Subcontracts.
- B. Related Sections: The following Sections contain requirements that relate to this Section.
 - 1. Division 0 Section "Supplementary General Conditions" for requirements related to Payments and Completion.
 - 2. Division 1 Section "Submittals" for the Contractor's Construction Schedule and the Submittal Schedule.
 - 3. Division 1 Section "Unit Prices" for administrative requirements governing the use of unit prices.
 - 4. Division 1 Section "Modification Procedures" for administrative procedures for handling changes to the Contract.
- C. Attachments: The following documents are attached to the end of this Section.
 - 1. Partial Waiver and Release of Mechanics Lien Claims.
 - 2. Initial Statement of Contract Value
 - 3. Stipulation Against and Waiver of Liens.

1.3 SCHEDULE OF VALUES

- A. Coordination: Coordinate preparation of the Schedule of Values with preparation of the Contractor's Construction Schedule.
 - 1. Correlate line items in the Schedule of Values with other required administrative schedules and forms, including:
 - a. Contractor's Construction Schedule.
 - b. Application for Payment forms, including Continuation Sheets.

- c. List of subcontractors.
 - d. Schedule of alternates.
 - e. List of products.
 - f. List of principal suppliers and fabricators.
 - g. Schedule of submittals.
2. Submit the Schedule of Values to the Architect at the earliest possible date but no later than 7 days before the date scheduled for submittal of the initial Application for Payment.
 3. Subschedules: Where Work is separated into phases requiring separately phased payments, provide subschedules showing values correlated with each phase of payment.
- B. Format and Content: Use the Project Manual table of contents as a guide to establish the format for the Schedule of Values. Provide at least one line item for each specification section.
1. Identification: Include the following project identification on the Schedule of Values:
 - a. Project name and location.
 - b. Name of the Architect.
 - c. Project number.
 - d. Contractor's name and address.
 - e. Date of submittal.
 2. Arrange the Schedule of Values in tabular form with separate columns to indicate the following for each item listed:
 - a. Related specification section and division.
 - b. Description of work.
 - c. Name of subcontractor.
 - d. Name of manufacturer or fabricator.
 - e. Name of supplier.
 - f. Change Orders (numbers) that affect value.
 - g. Dollar value.
 - 1) Percentage of Contract Sum to nearest one-hundredth percent, adjusted to total 100 percent.
 3. Provide a breakdown of the Contract Sum in sufficient detail to facilitate continued evaluation of Applications for Payment and progress reports. Coordinate with the Project Manual table of contents. Break principal subcontract amounts down into several line items.
 - a. Alternates: Provide a separate line item in the Schedule of Values for each Alternate Bid item that was awarded as part of the Contract.
 - b. Bonds and Insurance: Provide a separate line item for Bonds and Insurance.
 - c. Coordination Drawings: Provide a separate line item for Coordination Drawings.
 - d. Closeout Procedures: Provide a separate line item for Closeout Documents, Operations and Maintenance Manuals, Owner training, and turnover of extra materials/attic stock.
 - e. Commissioning: Provide a separate line item for Commissioning Support.

4. Round amounts to nearest whole dollar; the total shall equal the Contract Sum.
5. Provide a separate line item in the Schedule of Values for each part of the Work where Applications for Payment may include materials or equipment, purchased or fabricated and stored, but not yet installed.
 - a. Differentiate between items stored on-site and items stored off-site (if permitted by Owner). Include requirements for insurance and bonded warehousing, if required.
6. Provide separate line items on the Schedule of Values for initial cost of the materials, for each subsequent stage of completion, and for total installed value of that part of the Work.
7. Schedule Updating: Update and resubmit the Schedule of Values prior to the next Application for Payment when Change Orders or Construction Change Directives result in a change in the Contract Sum.

1.4 APPLICATIONS FOR PAYMENT

- A. Each Application for Payment shall be consistent with previous applications and payments as certified by the Architect and paid for by the Owner.
 1. Each Application for Payment MUST include an attached, executed Partial Waiver and Release of Mechanics Lien Claims Form.
 - a. On the initial Application for Payment, note \$0 on the Payment Amount line and N/A on the Payment Date line of the Partial Waiver and Release of Mechanics Lien Claims Form. For each subsequent Application for Payment, note the amount and date of the prior payment received.
 - b. The Contractor shall be responsible to have each subcontractor under their Contract, execute the attached Stipulation Against and Waiver of Liens prior to submittal of the initial Application for Payment.
- B. Payment-Application Times: Draft applications for progress payments shall be presented to the Architect no later than the 25th of each month. The Architect will comment and return to the Contractor for final submission no later than the first of the following month. The period of construction work covered by each Application for Payment is the period indicated in the Agreement.
- C. Payment-Application Forms: Use AIA Document G702 and Continuation Sheets G703 as the form for Applications for Payment.
- D. Application Preparation: Complete every entry on the form. Include notarization and execution by a person authorized to sign legal documents on behalf of the Contractor. The Architect will return incomplete applications without action.
 1. Entries shall match data on the Schedule of Values and the Contractor's Construction Schedule. Use updated schedules if revisions were made.

2. Include amounts of Change Orders and Construction Change Directives issued prior to the last day of the construction period covered by the application.
 3. Include an updated, executed copy of the Partial Waiver and Release of Mechanics Lien Claims Form.
- E. Transmittal: Submit 3 signed and notarized original copies of each Application for Payment to the Architect by a method ensuring receipt within 24 hours.
1. Transmit each copy with a transmittal form listing attachments and recording appropriate information related to the application, in a manner acceptable to the Architect.
- F. Initial Application for Payment: Administrative actions and/or submittals that must precede or coincide with submittal of the initial Application for Payment, include the following:
1. Secure a Stipulation Against and Waiver of Liens Form from each subcontractor.
 2. Execute an Initial Statement of Contract Value.
 3. List of subcontractors.
 4. List of principal suppliers and fabricators.
 5. Schedule of Values.
 6. Contractor's Construction Schedule (preliminary if not final).
 7. Schedule of principal products.
 8. List of Contractor's staff assignments.
 9. Copies of building permits.
- G. Application for Payment at Substantial Completion: Following issuance of the Certificate of Substantial Completion, submit an Application for Payment.
1. This application shall reflect Certificates of Partial Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
 2. Administrative actions and/or submittals that shall precede or coincide with this application include:
 - a. Occupancy permits and similar approvals.
 - b. Warranties (guarantees) and maintenance agreements.
 - c. Test/adjust/balance records.
 - d. Maintenance instructions.
 - e. Startup performance reports.
 - f. Changeover information related to Owner's occupancy, use, operation, and maintenance.
 - g. Final cleaning.
 - h. Application for reduction of retainage and consent of surety.
 - i. Advice on shifting insurance coverages.
 - j. List of incomplete Work, recognized as exceptions to Architect's Certificate of Substantial Completion.
- H. Final Payment Application: Administrative actions and/or submittals that must precede or coincide with submittal of the final Application for Payment include the following:
1. Execute a Contractor's Affidavit of Release of Liens Form (AIA Document G706A).

2. Completion of Project closeout requirements.
3. Completion of items specified for completion after Substantial Completion.
4. Ensure that unsettled claims will be settled.
5. Ensure that incomplete Work is not accepted and will be completed without undue delay.
6. Transmittal of required Project construction records to the Owner.
7. Removal of temporary facilities and services.
8. Removal of surplus materials, rubbish, and similar elements.
9. Change of door locks to Owner's access.

END OF SECTION 012900

**PARTIAL WAIVER AND RELEASE
OF MECHANICS LIEN CLAIMS**

(Must be executed and attached to Every Application for Payment)

OWNER: Berkeley County, West Virginia

ARCHITECT:



Crabtree, Rohrbaugh & Associates - Architects

250 West Main Street, Suite 200

Charlottesville, VA 22902

Virginia • Pennsylvania • Maryland • West Virginia

CONTRACTOR: _____

PROJECT: Health Department Addition and Alterations
(legal description attached hereto as Exhibit "A")

PAYMENT AMOUNT: _____

PAYMENT DATE: _____

ORIGINAL CONTRACT AMOUNT: _____

VALUE OF APPROVED CHANGE ORDERS: _____

For and in consideration of the Payment cited above, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Contractor does hereby waive, release, and relinquish any and all rights, claims, demands, liens, mechanics liens, claims for relief, causes of action and the like, whether arising at law, under a contract, in tort, in equity or otherwise, which the undersigned has now, may have had or may have in the future, arising out of any payment due or alleged to be due for any Contractor work, labor, or materials provided in connection with the Project, through the date hereof.

CONTRACTOR ACKNOWLEDGES THAT ANY CLAIM CONTRACTOR HAS HEREAFTER RELATING TO PAYMENT OR DEMANDS FOR PAYMENT SHALL BE LIMITED TO THE DIFFERENCE BETWEEN THE ORIGINAL CONTRACT AMOUNT AS MODIFIED BY THE VALUE OF APPROVED CHANGE ORDERS LESS THE AMOUNT PAID TO CONTRACTOR THROUGH THE DATE OF ANY SUCH CLAIM.

The Contractor warrants that it has not and will not assign any claims for payment or right to perfect any lien against Owner or Project and further warrants that it has the right to execute this waiver and release. Furthermore, Contractor hereby agrees to defend, indemnify and hold harmless Owner from and against all damages and costs that arise from any other entity or person claiming entitlement through the Contractor through the Payment Date.

In order to induce Owner to make the Payment referenced herein, the Contractor also warrants and certifies that it has made full payment of any amounts due or claimed to be due through the Payment Date to any person or entity who has supplied materials or labor in connection with the Project.

The undersigned agrees that the Owner of the Project, any lender, any title insurer, and any surety may rely upon this waiver.

The undersigned further agrees that the making and receipt of payment and execution of this Waiver and Release shall in no way release the undersigned from its continuing obligations with respect to the completion of any work remaining undone, punch list work, warranty and guaranty work, and any other obligations of the undersigned to the Owner.

IN WITNESS WHEREOF, on behalf of the undersigned, the Contractor executes this Partial Waiver and Release of Mechanics Liens on the date first written above.

CONTRACTOR: _____

By: _____

Title: _____

Sworn to and subscribed before me this ____ day of _____, 20____.

My commission expires: _____

Notary Public

INITIAL STATEMENT OF CONTRACT VALUE

(To be executed by the Contractor and submitted to the Architect for filing)

ARCHITECT:



**Crabtree, Rohrbaugh & Associates
Architects**

401 East Winding Hill Road
Mechanicsburg, Pennsylvania 17055
phone: (717) 458-0272 - fax: (717) 458-0047

OWNER: Berkeley County, West Virginia

In the Court of Common Pleas Berkeley County, West Virginia

Plaintiffs :

:

v. : No. _____

:

CONTRACTOR: _____

:

Defendant :

CONTRACTOR: _____

:

Plaintiff:

:

v. :

:

OWNER: Berkeley County, West Virginia

:

Defendant :

NOTICE PURSUANT TO §38-2-8

1. Owner is the legal or equitable owner of certain real estate known as 122 Waverly Court, Martinsburg, West Virginia by deed dated _____, and recorded _____, in the Office of the Recorder of Deeds of Berkely County, West Virginia, in Book _____, page _____ (hereinafter the "Property").
2. Contractor, is the "Contractor" as defined in §38-2-8, West Virginia Mechanics' Lien Law.
3. Owner and Contractor have entered into a contract for the construction of a building on the Property (hereinafter the "Contract") in which Owner is the Owner as defined in §38-2-8, West Virginia Mechanics' Lien Law, and Contractor is the Contractor.

4. For the specific purpose of limiting the potential mechanics lien claims of Owner's or Contractor's subcontractors as against the Owner to any such subcontractor's/claimant's pro-rata share of the unpaid balance of the contract price set forth in the Contract, the parties hereto file this Notice.
5. The Contract is dated _____ by and between the Owner and the Contractor.
6. The Contract contemplates the construction of a building containing approximately 9,000 square footage square feet to be constructed on the Property.
7. The total price of the Contract, as modified hereafter by any material change orders, is _____.
8. Any claim by any subcontractor/claimant shall be limited to its pro-rata share of the contract price remaining unpaid at the time notice of intention to file any such claim is first given to the Owner.

By: Owner

By: _____
Authorized Officer

By: Contractor

By: _____
Authorized Officer

STIPULATION AGAINST AND WAIVER OF LIENS

(Executed by the Contractor and each subcontractor prior to submittal of the INITIAL Application for Payment)

(The Contractor shall attain and file this Stipulation for each of their respective subcontractors)

ARCHITECT:



Crabtree, Rohrbaugh & Associates - Architects

250 West Main Street, Suite 200

Charlottesville, VA 22902

Virginia • Pennsylvania • Maryland • West Virginia

This instrument is executed this ____ day of _____, 20____, by and between

_____ and
("Contractor")

_____ in favor of
("Subcontractor")

Berkeley County, West Virginia

("Owner")

WITNESSETH:

1. Contractor is a Contractor within the meaning of the Mechanics Lien Law of 1963.
2. Owner and Contractor have entered into a certain contract (herein "Contract") in connection with the construction of Health Department Addition and Alterations
122 Waverly Court, West Virginia (herein "Project").
3. Contractor and Subcontractor have entered into a certain agreement by which Subcontractor will provide labor or materials to Contractor or Owner in connection with the construction of the Project.
4. Pursuant to current West Virginia requirements, Contractor has posted a bond guaranteeing payment for labor and materials provided by Subcontractor, and Subcontractor, for itself, its owners, shareholders, members, employees, partners, successors, and assigns, intends by this document to waive its right to file any claim whatsoever against the Project.
5. Subcontractor agrees that to the fullest extent permitted by law, no mechanics' or materialmen's liens shall be filed or maintained against the estate or title of Owner of the Project or any part thereof, or the appurtenances thereto, either by itself or anyone else acting or claiming through or under it, including subcontractors of Subcontractor, for or on account of any work, labor or materials supplied in the performance of the work under the Contract or under any supplemental contract or for extra work.

6. Subcontractor agrees that this agreement shall be an independent covenant and shall operate and be effective with respect to work done and materials furnished under any supplemental contract and for any extra work in connection with the above-described Project.
7. Subcontractor agrees that it will indemnify, defend, and hold harmless Contractor and Owner from it against any claims, including mechanics' lien claims raised by any subcontractor, supplier, or materialman of Subcontractor, including, without limitation, any subcontractor as that term is defined in the Pennsylvania Mechanics' Lien Law of 1963, as amended.
8. Subcontractor agrees that in the event it violates any provision of this Stipulation Against and Waiver of Liens, Subcontractor shall be liable to Contractor and Owner for all expenses and costs incurred in the defense of or payment of any claim brought by any person, to the extent the Subcontractor has indemnified Contractor and Owner against such a claim, including without limitation, attorneys fees and court costs.
9. To give Owner full power and authority to protect itself, the Project, the estate, or title of Owner therein, and the appurtenances thereto, against any and all liens filed by anyone acting under or through Subcontractor in violation of the terms of this agreement, Subcontractor hereby irrevocably authorizes and empowers any attorney of any Court of Common Pleas of the Commonwealth of Pennsylvania (i) to appear as attorney for it in any such Court, and in its name or names, to the extent permitted by law, mark satisfied of record at the cost and expense of Subcontractor any and all lien or liens filed in violation of the foregoing covenant, or (ii) to cause to be filed and served in connection with such lien or liens any pleading or instrument, or any amendment to any pleading or instrument previously filed by it, and to incorporate therein, as part of the record, the waiver contained in this instrument; and for such act or acts this instrument shall be good and sufficient warrant and authority. A reference to the court, term and number in which and where this agreement shall have been filed shall be conclusive evidence of the authority herein to warrant such action, and Subcontractor hereby remises, releases and quitclaims all rights and all manner of errors, defects and imperfections whatsoever in entering such satisfaction or in filing such pleading, instrument or amendment, or in any way concerning them.
10. **Contractor must attach a copy of the Legal Description of Project property to this form prior to submittal to the Architect.**

IN WITNESS WHEREOF, Contractor has executed this instrument as of the day and year first above written.

CONTRACTOR: _____

By: _____

Its: _____

SUBCONTRACTOR: _____

By: _____

Its: _____

SECTION 013100 – PROJECT COORDINATION

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and supervisory requirements necessary for coordinating construction operations on the Project.
- B. The Contractor shall be responsible for coordination.
- C. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Field Engineering" specifies procedures for field-engineering services, including establishment of benchmarks and control pointsDivision 1 Section "Project Meetings" for progress meetings, coordination meetings, and preinstallation conferences.
 - 3. Division 1 Section "Submittals" for preparing and submitting the Contractor's Construction Schedule.
 - 4. Division 1 Section "Contract Closeout" for coordinating contract closeout procedures.
 - 5. Division 4 Section "Unit Masonry Assemblies" for Masonry Preinstallation Shop Drawing requirements.
 - 6. Division 21 through 28 Sections for specific coordination drawing requirements for mechanical and electrical installations.

1.3 GENERAL PROJECT COORDINATION PROCEDURES

- A. The Contractor shall coordinate its construction activities with those of subcontractors and installers and other entities involved to assure efficient and orderly installation of each part of the Work. The Contractor shall coordinate its operations with operations included under different sections of the Specifications that depend on each other for proper installation, connection, and operation.
 - 1. The Contractor shall schedule its construction operations in the sequence required to obtain the best results where installation of one part of the Work depends on installation of other components, before or after its own installation.
 - 2. Where availability of space is limited, the Contractor shall coordinate installation of different components with subcontractors and installers to assure maximum accessibility for required maintenance, service, and repair.

3. The Contractor shall make adequate provisions to accommodate items scheduled for later installation.

B. The Contractor shall advise the Owner and Architect of overall coordination progress. When necessary, such as in congested spaces, the Contractor shall meet with the Owner and Architect and subcontractors and installers involved to resolve critical coordination issues.

1.4 CONSERVATION

A. The Contractor shall coordinate construction activities to assure that operations are carried out with consideration given to conservation of energy, water and materials.

1. Salvage materials and equipment involved in performance of, but not actually incorporated into the Work.

1.5 COORDINATION DRAWINGS

A. Prepare coordination drawings where careful coordination is needed for installation of products and materials. Prepare coordination drawings where limited space availability necessitates efficient installation of different components.

B. Coordination drawings shall be completed **within 60 calendar days of the date of Notice to Proceed**. The Contractor shall include preparation of coordination drawings in their Contract Price and shall indicate the value of this effort as a line item on their Schedule of Values.

1. Refer to Division 21 through 28 Sections for specific coordination drawing requirements for mechanical and electrical installations.

2. The HVAC scope of work shall be used to initiate the coordination drawings. The Contractor shall produce ¼" scale drawings, by building section, in electronic format. Electronic media, in the format and to the terms specified in Paragraph 3.12 of Section 000750 Supplementary General Conditions, is available from the Architect. This media will include walls, partitions, structural elements, finished floor elevations, ductwork, piping, and equipment locations and layout. The coordination drawings shall include all other trades for inclusion, layout and interface of all relative equipment, material and penetrations associated with the Work

3. Upon resolution of all interference issues, the Contractor shall issue a set of final coordination drawings to all entities involved in the Work and to the Owner and Architect.

1.6 ADMINISTRATIVE AND SUPERVISORY PERSONNEL

A. General: In addition to its full-time on site Project Superintendent, the Contractor shall provide other administrative and supervisory personnel as required for proper performance of the Work. Include special personnel required for coordination.

- B. Project Coordinator: The Contractor shall provide a Project Coordinator, experienced in administration and supervision of building construction, including mechanical and electrical work.
 - 1. Construction activities requiring coordination by the Project Coordinator include, but are not limited to, the following:
 - a. Scheduling and sequencing of the Work
 - b. Cutting and patching
 - c. Selections for compatibility
 - d. Coordination drawings
 - e. Inspections and tests
 - f. Temporary services and facilities
 - g. Daily project clean up activities

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION

3.1 GENERAL COORDINATION PROVISIONS

- A. Inspection of Conditions: The Contractor shall require the installer of each major component to inspect both the substrate and conditions under which work is to be performed. Do not proceed until unsatisfactory conditions have been corrected in an acceptable manner.

3.2 CLEANING AND PROTECTION

- A. Clean and protect construction in progress and adjoining materials in place during handling and installation. Apply protective covering where required to assure protection from damage or deterioration until Substantial Completion.
- B. Clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period. Adjust and lubricate operable components to assure operability without damaging effects.
- C. Limiting Exposures: The Contractor shall supervise its construction operations to assure that no part of the construction, completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period. Where applicable, such exposures include, but are not limited to, the following:
 - 1. Thermal shock
 - 2. Excessively high or low humidity
 - 3. Air contamination or pollution
 - 4. Water or ice
 - 5. Solvents

6. Chemicals
7. Light
8. Radiation
9. Puncture
10. Abrasion
11. Heavy traffic
12. Soiling, staining, and corrosion
13. Bacteria
14. Rodent and insect infestation
15. Combustion
16. Electrical current
17. High-speed operation
18. Improper lubrication
19. Unusual wear or other misuse
20. Contact between incompatible materials
21. Destructive testing
22. Misalignment
23. Excessive weathering
24. Unprotected storage
25. Improper shipping or handling
26. Theft
27. Vandalism

Any Work subjected to such exposures shall be tested, corrected and/or replaced at the expense of the Contractor, in accordance with Division 0 Section "General Conditions of the Contract for Construction".

- D. The Contractor shall provide daily project clean up of the work site.

END OF SECTION 013100

SECTION 013150 - PROJECT MEETINGS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section specifies administrative and procedural requirements for project meetings, including, but not limited to, the following:
 - 1. Preconstruction conferences
 - 2. Preinstallation conferences
 - 3. Progress meetings
 - 4. Coordination meetings
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Project Coordination" for procedures for coordinating project meetings with other construction activities.
 - 2. Division 1 Section "Submittals" for submitting the Contractor's Construction Schedule.

1.3 PRECONSTRUCTION CONFERENCE

- A. Within 15 calendar days of the date of Notice to Proceed, the Architect shall schedule and conduct a Preconstruction Conference at a time convenient to the Owner. Hold The Preconstruction Conference will be held at the Project Site or another convenient location. The purpose of this meeting will be to review the responsibilities and other requirements of the Contractor.
- B. Attendees: Authorized representatives of the Owner, Architect and their consultants, the Contractor and its Superintendent, major subcontractors, manufacturers and suppliers. All participants at the Preconstruction Conference shall be familiar with the Project and authorized to conclude matters relating to the Work.
- C. Agenda: Discuss items of significance including the following:
 - 1. Construction schedule
 - 2. Critical work sequencing
 - 3. Designation of responsible personnel
 - 4. Procedures for processing field decisions and Change Orders
 - 5. Procedures for processing Applications for Payment

6. Distribution of Contract Documents
7. Submittal of Shop Drawings, Product Data, and Samples
8. Preparation of record documents
9. Use of the premises
10. Parking availability
11. Office, work, and storage areas
12. Equipment deliveries and priorities
13. Safety procedures
14. First aid
15. Security
16. Daily clean up activities
17. Working hours

1.4 PREINSTALLATION CONFERENCES

- A. The Contractor shall conduct a preinstallation conference at the Project Site before each construction activity that requires coordination with other construction and as required by specific specification Sections.
- B. Attendees: The Installer and representatives of manufacturers and fabricators involved in, or affected by the installation, and its coordination or integration with other materials and installations that have preceded or will follow, shall attend the meeting. Advise the Architect of scheduled meeting dates.
 1. Review the progress of other construction activities and preparations for the particular activity under consideration at each preinstallation conference, including requirements for the following:
 - a. Contract Documents
 - b. Options
 - c. Related Change Orders
 - d. Purchases
 - e. Deliveries
 - f. Shop Drawings, Product Data, and quality-control samples
 - g. Review of mockups
 - h. Possible conflicts
 - i. Compatibility problems
 - j. Time schedules
 - k. Weather limitations
 - l. Manufacturer's recommendations
 - m. Warranty requirements
 - n. Compatibility of materials
 - o. Acceptability of substrates
 - p. Temporary facilities
 - q. Space and access limitations
 - r. Governing regulations
 - s. Safety

- t. Inspecting and testing requirements
 - u. Required performance results
 - v. Recording requirements
 - w. Protection
2. Record significant discussions and agreements and disagreements of each conference, and the approved schedule. Promptly distribute a record of the meeting to everyone concerned, including the Owner and the Architect.
 3. Do not proceed with the installation if the conference cannot be successfully concluded. Initiate whatever actions are necessary to resolve impediments to performance of Work and reconvene the conference at the earliest feasible date.

1.5 PROGRESS MEETINGS

- A. The Architect shall conduct progress meetings at the Project Site at bi-weekly intervals, unless otherwise needed.
- B. Attendees: In addition to representatives of the Owner and the Architect, **it is mandatory that the Contractor be represented at all Progress Meetings. Key subcontractors relevant to the ongoing Work shall also attend Progress Meetings.** All participants at the conference shall be familiar with the Project and authorized to conclude matters relating to the Work.
- C. Agenda: Review and correct or approve minutes of the previous progress meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to the status of the Project.
 1. Contractor's Construction Schedule: Review construction progress since the last meeting. Determine where each activity is in relation to the Contractor's Construction Schedule, whether on time or ahead or behind schedule. Discuss whether schedule revisions are required to insure that current and subsequent activities will be completed within the Contract Time.
 2. Review the present and future needs of each entity present, including the following:
 - a. Interface requirements
 - b. Time
 - c. Sequences
 - d. Status of submittals
 - e. Deliveries
 - f. Off-site fabrication problems
 - g. Access
 - h. Site utilization
 - i. Temporary facilities and services
 - j. Hours of work
 - k. Hazards and risks
 - l. Daily clean up activities
 - m. Quality and work standards
 - n. Change Orders
 - o. Documentation of information for payment requests

D. Reporting: Minutes will be distributed by the Architect at least 3 calendar days prior to the next meeting to each party present and to parties who should have been present.

1. Schedule Updating: Refer to Division 1 Section "Construction Progress Documentation" for requirements. Issue the revised schedule concurrently with the report of each meeting.

1.6 COORDINATION MEETINGS

- A. The Contractor shall conduct coordination meetings a minimum of once every two weeks. Project coordination meetings are in addition to specific meetings held for other purposes, such as regular progress meetings and special preinstallation meetings. Record meeting minutes and distribute copies to everyone in attendance and to others affected by decisions or actions resulting from each meeting. In addition, the Owner and Architect shall receive copies of these meeting minutes.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 013150

SECTION 013200 - CONSTRUCTION PROGRESS DOCUMENTATION

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for documenting the progress of construction during performance of the Work, including the following:
 - 1. Contractor's Construction Schedule
 - 2. Daily construction reports
 - 3. Field condition reports
 - 4. Special reports
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Project Coordination"
 - 2. Division 1 Section "Applications for Payment" for submitting the Schedule of Values
 - 3. Division 1 Section "Project Meetings" for submitting and distributing meeting and conference minutes
 - 4. Division 1 Section "Quality Requirements" for submitting a schedule of tests and inspections
 - 5. Division 1 Section "Project Record Documents" for submitting Project Record Documents at Project closeout
 - 6. Division 1 Section "Submittals" for procedural requirements regarding the Submittal Schedule
 - 7. Division 1 Section "Temporary Facilities & Controls" for the various stages of Construction relative to temporary heat which must be identified on the Contractor's Construction Schedule.

1.3 DEFINITIONS

- A. Activity: A discrete part of a project that can be identified for planning, scheduling, monitoring and controlling the construction project. Activities included in a construction schedule consume time and resources.
 - 1. Critical activities are activities on the critical path. They must start and finish on the planned early start and finish dates.
 - 2. Predecessor activity is an activity that must be completed before a given activity can be started.

- B. Critical Path Method (CPM): A method of planning and scheduling a construction project where activities are arranged based on activity relationships. Network calculations determine when activities can be performed and the critical path of the Project.
- C. Critical Path: The longest continuous chain of activities through the network schedule that establishes the minimum overall Project duration and contains no float.
- D. Event: The starting or ending point of an activity.
- E. Float: The measure of leeway in starting and completing an activity.
 - 1. Float is not for the exclusive use or benefit of either the Owner or the Contractor. Extensions of the time to interim milestone dates or the Contract Completion Date, under the Contract, will be granted only to the extent that equitable time adjustment to the activity or activities affected by the Contract Modification or delay, exceeds the total float of the affected or subsequent paths and extends any interim milestone date or the Contract Completion date.
 - 2. Free float is the amount of time an activity can be delayed without adversely affecting the early start of the following activity.
 - 3. Total float is the measure of leeway in starting or completing an activity without adversely affecting the planned Project completion date.
- F. Fagnets: A partial or fragmentary network that breaks down activities into smaller activities for greater detail.
- G. Major Area: A story of construction, a separate building, or a similar significant construction element.
- H. Milestone: A key or critical point in time for reference or measurement.
- I. Network Diagram: A graphic diagram of a network schedule showing activities and activity relationships.

1.4 SUBMITTALS

- A. Qualification Data: For firms and persons specified in "Quality Assurance" Article and in-house scheduling personnel to demonstrate their capabilities and experience. Include lists of completed projects with project names and addresses, names and addresses of Architects and Owners, and other information specified.
- B. Preliminary Construction Schedule: Submit one (1) copy in an acceptable format as determined by the Architect.
- C. Contractor's Construction Schedule: Submit one (1) paper Gantt Chart and one (1) electronic copy in its native format.
- D. CPM Reports: The Contractor's Construction Schedule shall be a CPM Schedule. Concurrent with the CPM Schedule, submit three (3) printed copies of each of the following computer-

generated reports. The format for each activity in the reports shall contain an activity number, activity description, original duration, remaining duration, early start date, early finish date, late start date, late finish date and total float.

1. Activity Report: List of all activities sorted by activity number and then early start date, or actual start date if known.
 2. Logic Report: List of preceding and succeeding activities for all activities, sorted in ascending order by activity number and then early start date, or actual start date if known.
 3. Total Float Report: List of all activities sorted in ascending order of total float.
- E. Daily Construction Reports: Submit two (2) copies at weekly intervals.
- F. Field Condition Reports: Submit two (2) copies at time of discovery of differing conditions.
- G. Special Reports: Submit two (2) copies at time of unusual event.

1.5 QUALITY ASSURANCE

- A. Prescheduling Conference: Conduct conference at the Project site to comply with requirements in Division 1 Section "Project Meetings". Review methods and procedures related to the Preliminary Construction Schedule and Contractor's Construction Schedule, including, but not limited to, the following:
1. Discuss constraints, including phasing, work stages, area separations and interim milestones.
 2. Review delivery dates for Owner-furnished products.
 3. Review time required for review of submittals and resubmittals.
 4. Review requirements for tests and inspections by independent testing and inspecting agencies.
 5. Review time required for completion and startup procedures.
 6. Review and finalize the list of construction activities to be included in the schedule.
 7. Review submittal requirements and procedures.
 8. Review procedures for updating schedules.

1.6 COORDINATION

- A. Coordinate preparation and processing of schedules and reports with performance of construction activities.
- B. Coordinate the Contractor's Construction Schedule with the Schedule of Values, List of Subcontracts, Submittal Schedule, Progress Reports, Applications for Payment and other required schedules and reports.
1. Secure time commitments for performing critical elements of the Work from parties involved.
 2. Coordinate each construction activity in the network with other activities and schedule them in proper sequence.

1.7 CONTRACTOR'S CONSTRUCTION SCHEDULE, GENERAL

- A. The Work under the Contract Documents shall be planned, scheduled, executed, reported and accomplished using the Critical Path Method, in work days (excluding legal holidays). The provisions of the General Requirements are to be followed in scheduling construction activities.
- B. The primary objectives of the requirements of this Section are: (1) to insure adequate planning and execution of the Work by the Contractor by having a schedule of construction activities for the Contractor and Subcontractors in initial form covering the first 120 days of construction within thirty (30) days of the Notice to Proceed and in final form within seventy-five (75) days of the Notice to Proceed; (2) to assist the Contractor in evaluating progress of the Work; (3) to provide for optimum coordination by the Contractor of their trades and Subcontractors; and (4) to permit the timely prediction or detection of events or occurrences which may affect the timely prosecution of the Work.
- C. The Contractor is responsible for determining the sequence and logic of activities, the time estimates of the detailed construction activities and the means, methods, techniques and procedures to be employed with regard to the Work. The Contractor's Construction Schedule shall represent the Contractor's best judgment of how they shall prosecute the Work in compliance with the requirements of the Contract Documents. The Contractor shall ensure that the Contractor's Construction Schedule is current and accurate and is properly and timely monitored, updated and revised as Project conditions and the Contract Documents may require.
- D. The Contractor shall consult with their major subcontractors relating to the preparation of their construction plan and the Contractor's Construction Schedule. Major subcontractors shall receive copies of those portions of the Contractor's Construction Schedule which relate to their Work and shall be continually advised of any updates or revisions to the Contractor's Construction Schedule as the Work progresses. When the Contractor submits their Construction Schedule or makes any proposed updates or revisions to such Schedule, it shall be concluded by the Owner that the Contractor has consulted with and has the concurrence of their major subcontractors. The Contractor shall be solely responsible for ensuring that all subcontractors comply with the requirements of the Contractor's Construction Schedule for their portions of the Work.
- E. The Contractor shall include data relating to activities, durations and sequences as part of the Contractor's draft of the Construction Schedule. This data shall reflect the Contractor's actual construction plan for the Project, and shall fully comply with all requirements of the Contract Documents.
- F. It is understood and agreed that the Contractor's Construction Schedule is to represent the Contractor's best plan and estimate for the Work; however, the Contractor acknowledges that the Contractor's Construction Schedule may have to be revised from time-to-time as the Project proceeds. The Contractor further acknowledges and agrees that the Owner does not guarantee that: (1) The Contractor can start Work activities on the "early start" or "late start" dates or complete Work activities on the "early finish" or "late finish" dates shown in the schedule, or as same may be updated or revised; or (2) The Contractor can proceed at all times in the sequence

established by the Contractor's Construction Schedule, or that the Contractor can rely upon the utilization of only the resources and manpower they initially plan for the performance of the Work. Any changes, modifications or adjustments made by the Contractor to the Contractor's Construction Schedule shall be in full compliance with all requirements of the Contract Documents.

- G. The Contractor acknowledges and agrees that their Contractor's Construction Schedule must be flexible in order to accommodate and allow for proper coordination.
- H. The review of the Contractor's Construction Schedule or any other schedule or plan of construction of the Contractor, does not constitute an agreement by the Owner of any start or finish date in the schedule or specific durations or sequences for activities of the Contractor; further, nothing herein shall be construed as modifying or changing, or excusing the performance of the Contractor of required portions of the Work by the Completion Dates as set forth in the Contract Documents.
- I. The Completion Dates set forth in the Contract Documents represent only the major items of Work and may or may not include interface dates with the construction activities of others. Completion Dates are Contract requirements and are the essence of the Contract Documents and to the coordination of the Work by the Contractor. Completion Dates represent the latest allowable completion time for those portions of the Work to which each Completion Date relates. The Completion Dates are not intended to be a complete listing of all Work under the Contract Documents.
- J. Unless otherwise specifically provided in the Contract Documents, and in particular the General Requirements, the Contractor acknowledges that the Owner and Architect have contemplated in their planning and in any preliminary schedule that may have been prepared and made available to the Bidders, and in their budgeting for professional services, that the Work shall be performed on a 5-day work week basis, utilizing a single 8-hour shift per day. The Owner shall have the sole discretion of approving or rejecting a variance in the work week, number of shifts, or shift length. Unless otherwise agreed to by the Owner, the Contractor shall bear the cost of, and pay the Owner, for additional staff and supervisory personnel and inspectors of any authority having jurisdiction of the Work, necessary to support any variance in the contemplated work week, number of shifts or shift length.

1.8 POST AWARD ACTIVITIES

- A. Upon receipt by the Contractor of the Notice to Proceed, and until the Contractor's Construction Schedule is completed, the Contractor shall do the following.
 - 1. Within thirty (30) days of the Notice to Proceed, complete an Preliminary Construction Schedule governing the first 120 days of construction.
 - 2. Within seventy-five (75) days of the Notice to Proceed, complete a Final Construction Schedule governing the Work.

1.9 CONSTRUCTION SCHEDULE CONTENT

- A. The Contractor's Construction Schedule shall consist of a detailed CPM Schedule of all Work activities of the Project. The Schedule shall include, but not be limited to, the following information: (1) Project name; (2) completed Work ready for use by the Owner, etc.; (3) activities relating to different areas of responsibility, such as subcontracted Work which is distinctly separate from that being done by the Contractor directly; (4) different categories of Work as distinguished by craft or crew requirements; (5) different categories of Work as distinguished by equipment requirements; (6) different categories of Work as distinguished by materials; (7) distinct and identifiable subdivisions of Work such as structural slabs, beams, columns; (8) location of Work within the Project that necessitates different times or crews to perform; (9) outage schedules for existing utility services that shall be interrupted during the performance of the Work; (10) acquisition and installation of equipment and materials supplied and/or installed by the Owner; (11) material to be stored on site; and (12) dates for completion of Work.
- B. For all major equipment and materials to be fabricated or supplied for the Project, the Contractor's Construction Schedule shall show a sequence of activities including: (1) preparation of Shop Drawings, Samples and all required Submittals as set forth in these specifications; (2) a reasonable time for review of Shop Drawings, Samples, and Submittals or such time as specified in the Contract Documents; (3) shop fabrication, delivery, and storage; (4) erection or installation; and (5) testing of equipment and materials.
- C. The Contractor's Construction Schedule shall clearly indicate the dates of the various stages of construction relative to temporary heat, as defined in Part 3 Paragraph "Temporary Heat" of Division 1 Section "Temporary Facilities & Controls".
- D. The Gantt Chart shall include the early dates and total float for each activity. There shall be no negative float in the baseline schedule.
- E. All activity durations shall be given in calendar days. No activity shall have a duration of more than twenty (20) days.

1.10 UPDATING OF CONSTRUCTION SCHEDULE/PROGRESS REPORTS

- A. On a monthly basis the Contractor shall prepare the Contractor's report of actual progress. Said report shall set forth up-to-date and accurate progress data, shall be based upon the Contractor's best judgment and shall be prepared by the Contractor in consultation with all subcontractors.
- B. The progress report of the Contractor shall show the activities, or portions of activities, completed during the reporting period, the actual start and finish dates for these activities, remaining durations and/or estimated dates for completion of Work for activities currently in progress.
- C. The Contractor shall submit a written report with the updated progress analysis which shall include, but not be limited to, a description of problem areas, current and anticipated delaying factors and their impact, explanations of corrective actions taken or planned, any newly planned activities or changes in sequence, and proposed logic for a recovery schedule, if required, as further described herein. The report shall also include: (1) a narrative describing actual Work

accomplished during the reporting period; (2) a list of major construction equipment used on the Project during the reporting period and any construction equipment idle during the reporting period; (3) the total number of personnel by craft actually engaged in the Work during the reporting period, with such total stated separately as to office, supervisory, and field personnel; (4) a manpower and equipment forecast for the succeeding thirty (30) days, stating such total as to office, supervisory and field personnel; (5) a list of Contractor-supplied materials and equipment, indicating current availability and anticipated job site delivery dates; and (6) changes or additions to the Contractor's supervisory personnel, if any, since the preceding progress report.

- D. The Contractor understands and agrees that the submission and approval of progress updates and the receipt of progress reports are an integral part and basic element of the Applications for Payment; and that the Contractor shall not be entitled to any progress payment under the Contract Documents until, in the sole discretion of the Owner, the Contractor has fully complied with the requirements of this Section.
- E. The Contractor shall be solely responsible for expediting the delivery of all materials and equipment to be furnished by or to them so that the progress of construction shall be maintained according to the currently approved Contractor's Construction Schedule for the Work. The Contractor shall notify the Owner in writing, and in a timely and reasonable manner, whenever the Contractor determines or anticipates that the delivery date of any material or equipment to be furnished by the Contractor shall be later than the delivery date indicated by the Contractor's Construction Schedule, or required consistent with the completion requirements of the Contract Documents, subject to schedule updates as herein provided.
- F. The Contractor shall ensure that off site activities do not control the critical path of the Contractor's Construction Schedule and instead, that the critical path only relates to activities on the site.

1.11 RECOVERY SCHEDULE.

- A. Should the updated Contractor's Construction Schedule, at any time during the Contractor's performance, show, in the sole opinion of the Owner that the Contractor is fourteen (14) or more days behind schedule for any Completion Date, or should the Contractor be required to undertake actions as provided for in these specifications, the Contractor shall prepare a recovery schedule at no additional cost to the Owner (unless the Owner is solely responsible for the event or occurrence which has caused the schedule slippage) explaining and displaying how the Contractor intends to reschedule their Work in order to regain compliance with the Contractor's Construction Schedule during the immediate subsequent pay period.
- B. If the Contractor believes that all of the time can be recovered during the subsequent pay period, the Contractor shall be permitted to prepare a recovery schedule as set forth below. However, if the Contractor believes it shall take more than thirty (30) days to recover all of the lost time, they shall prepare a revision to the Contractor's Construction Schedule and comply with all of the requirements of a schedule revision as set forth in this Paragraph 1.12 and Paragraph 1.13.

1. The Contractor shall prepare a limited duration recovery schedule, incorporating the best available information from Subcontractors and others which shall permit a return to the Construction Schedule at the earliest possible time. The Contractor shall prepare a recovery schedule to the same level of detail as the Construction Schedule for a maximum duration of one month.
2. Within two (2) days after submission by the Contractor of a recovery schedule, the Contractor shall participate in a conference with the Owner, to review and evaluate the recovery schedule. Within two (2) days of the conference, the Contractor shall submit the revisions necessitated by the review for the Owner's review and approval. The Contractor shall use the approved recovery schedule as their plan for returning to the Contractor's Construction Schedule.
3. The Contractor shall confer continuously with the Owner to assess the effectiveness of the recovery schedule. As a result of this conference:
 - a. If the Owner determines the Contractor is still behind schedule, the Owner shall direct the Contractor to prepare a schedule revision and comply with all of the requirements of a schedule revision as stated herein and the other requirements of the Contract Documents; provided, however, that nothing herein shall limit in any way the rights and remedies of the Owner as provided elsewhere in the Contract Documents; or
 - b. If the Owner determines the Contractor has successfully complied with the provisions of the recovery schedule, the Owner shall direct the Contractor to return to the use of the approved Contractor's Construction Schedule.

1.12 SCHEDULE REVISIONS

- A. Should the Contractor desire to or be otherwise required under the Contract Documents to make modifications or changes in their method of operation, their sequence of Work or the durations of the activities in the Contractor's Construction Schedule, they shall do so in accordance with the requirements of this Paragraph and the Contract Documents. Revisions to the approved Contractor's Construction Schedule must be presented to and reviewed by the Owner.
- B. The Contractor shall submit requests for revisions to the Contractor's Construction Schedule to the Owner, together with written rationale for revisions and description of logic for rescheduling Work and maintaining the Completion Dates listed in the Contract Documents. Proposed revisions acceptable shall be incorporated into the next update of the Contractor's Construction Schedule. The Contractor shall pay the Owner for costs incurred by the Lead Contractor for the revisions.
- C. In all instances where a revision to the Contractor's Construction Schedule will affect the construction activities of other Prime Contractors, prior to submission by the Contractor of their proposed schedule revisions, they shall meet with and gain written approval of each of the Prime Contractors to make the revisions which shall be evidenced by the signatures of said Prime Contractors on the proposed schedule revisions. If accepted, the revisions, shall be binding upon the Contractor and all Prime Contractors on the Project.

1.13 FLOAT TIME

- A. Float or slack time associated with one chain of activities is defined as the amount of time between the earliest start date and latest start date or between the earliest finish date and latest finish date for such activities, as calculated as part of the Contractor's Construction Schedule. The Contractor agrees that there shall be no basis for any modification of the Completion Date or dates or an extension of the Contract Time, or a claim for additional compensation as a result of any Project problem, Change Order or delay which only results in the loss of available positive float on the Contractor's Construction Schedule.

1.14 SCHEDULE OF INSPECTIONS AND TESTS

- A. Prepare a schedule of inspections, tests, and similar services required by the Contract Documents. Submit the schedule within 10 days of the date established for commencement of the Work.
- B. The schedule shall be in tabular form and shall include, but not be limited to, the following:
 - 1. Specification Section number
 - 2. Description of the test
 - 3. Identification of applicable standards
 - 4. Identification of test methods
 - 5. Number of tests required
 - 6. Time schedule or time span for tests
 - 7. Entity responsible for performing tests
 - 8. Requirements for taking samples.
 - 9. Unique characteristics of each service
- C. Distribute the schedule to the Owner, Architect, and each party involved in performance of portions of the Work where inspections and tests are required.

1.15 REPORTS

- A. Daily Construction Reports: Prepare Daily Construction Reports recording the following information concerning events at the Project site:
 - 1. List of subcontractors at Project site
 - 2. Approximate count of personnel at Project site
 - 3. High and low temperatures and general weather conditions
 - 4. Accidents
 - 5. Meetings and significant decisions
 - 6. Unusual events (refer to special reports)
 - 7. Stoppages, delays, shortages, and losses
 - 8. Meter readings and similar recordings
 - 9. Emergency procedures
 - 10. Orders and requests of authorities having jurisdiction
 - 11. Change Orders received and implemented

12. Construction Change Directives received
13. Services connected and disconnected
14. Equipment or system tests and startups
15. Partial Completions and occupancies
16. Substantial Completions authorized

- B. Field Correction Reports: When the need to take corrective action that requires a departure from the Contract Documents arises, prepare a detailed report. Include a statement describing the problem and recommended changes. Indicate reasons the Contract Documents cannot be followed. Submit a copy to the Architect immediately.
- C. Field Condition Reports: Immediately on discovery of a difference between field conditions and the Contract Documents, prepare a detailed report. Submit with a Request for Information. Include a detailed description of the differing conditions, together with recommendations for changing the Contract Documents.
- D. Material Location Reports: At weekly intervals, prepare a comprehensive list of materials delivered to and stored at the site. The list shall be cumulative, showing materials previously reported plus items recently delivered. Include with the list a statement of progress on and delivery dates for materials or items of equipment fabricated or stored away from the site. Submit copies of the list to the Architect at weekly intervals.

1.16 SPECIAL REPORTS

- A. General: Submit Special Reports directly to the Owner within one day of an occurrence. Distribute copies of reports to parties affected by the occurrence and to the Architect.
- B. Reporting Unusual Events: When an event of an unusual and significant nature occurs at the Project site, whether or not related directly to the Work, prepare and submit a Special Report. List chain of events, persons participating, response by Contractor's personnel, evaluation of results or effects, and similar pertinent information. Advise the Owner in advance when these events are known or predictable.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 013200

SECTION 013300 - SUBMITTALS

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for Submittals required for performance of the Work, including the following:

1. Shop Drawings
2. Product Data
3. Samples
4. Quality Assurance Submittals
5. Submittals Schedule

- B. Administrative Submittals: Refer to other Division 1 Sections and other Contract Documents for requirements for administrative submittals. Such submittals include, but are not limited to, the following:

1. Permits
2. Applications for Payment, along with Initial Statement of Contract Value
3. Performance and Payment Bonds
4. Insurance certificates
5. List of subcontractors

- C. Related Sections: The following Sections contain requirements that relate to this Section:

1. Division 1 Section "Applications for Payment" specifies requirements for submittal of the Schedule of Values.
2. Division 1 Section "Substitutions" specifies procedural requirements for handling requests for substitutions made after award of the Contract.
3. Division 1 Section "Project Coordination" specifies requirements governing preparation and submittal of required Coordination Drawings.
4. Division 1 Section "Project Meetings" specifies requirements for submittal and distribution of meeting and conference minutes.
5. Division 1 Section "Construction Progress Documentation" specifies requirements for Submittal Schedules.
6. Division 1 Section "Quality Requirements" specifies requirements for submittal of inspection and test reports.
7. Division 1 Section "Warranties" specifies requirements for Submittal of warranties at project closeout.

8. Division 1 Section "Project Record Documents" specifies requirements for submittal of Project Record Documents at project closeout.

1.3 DEFINITIONS

- A. Coordination Drawings show the relationship and integration of different construction elements that require careful coordination during fabrication or installation to fit in the space provided or to function as intended.
 1. Preparation of Coordination Drawings is specified in Division 1 Section "Project Coordination" and may include components previously shown in detail on Submittals.
- B. Field samples are full-size physical examples erected on-site to illustrate finishes, coatings, or finish materials. Field samples are used to establish the standard by which the Work will be judged.
- C. Mockups are full-size assemblies for review of construction, coordination, testing, or operation; they are not Samples.
- D. For Specification sections listing manufacturer's products that include the phrases "but are not limited to the following" or "approved equal", the Contractor shall be responsible to provide certification that the submitted product complies with the specified product. Include this certification with the Submittal. Final approval of a product submitted as an "equal" shall be solely by the Architect.

1.4 SUBMITTAL PROCEDURES

- A. **All Submittals shall be processed electronically through a web-based construction administration software, either Newforma or Submittal Exchange, to be determined by the Architect.** This software serves as a collaborative web environment which expedites and organizes the review process. The Owner will pay the fees associated to acquire the use of a license for the project. **Each Submittal is to include a SINGLE item or element of construction only. A Submittal Cover Sheet, on the attached form shall be completed, signed and certified by the Contractor for EACH Submittal. The Architect will not accept Submittals including multiple items or elements of construction. Submittals not meeting this procedure requirement may be returned with No Action Taken. No extension of Contract Time will be authorized due to failure to comply with this procedure.**
 1. The software licensee will provide a training session via web conference for the construction team.
 2. All samples and color selections shall be delivered by mail or courier. Samples shall be logged in via the construction administration software, but delivered hardcopy by mail.
 3. The design and construction team shall collectively maintain the Submittal Log through the construction administration software.

- B. Coordination: Coordinate preparation and processing of Submittals with performance of construction activities. Transmit each Submittal sufficiently in advance of performance of related construction activities to avoid delay.
1. Coordinate each Submittal with fabrication, purchasing, testing, delivery, other Submittals and related activities that require sequential activity.
 2. Coordinate transmittal of different types of Submittals for related elements of the Work so processing will not be delayed by the need to review Submittals concurrently for coordination.
 - a. The Architect reserves the right to withhold action on a Submittal requiring coordination with other Submittals until all related Submittals are received.
 - b. Be advised that all interior finishes will be reviewed together and finally determined after receipt of all shop drawings, product data and samples which pertain to the interior finish color selections and related equipment.
 3. To avoid the need to delay installation as a result of the time required to process Submittals, allow sufficient time for Submittal review, including time for resubmittals.
 - a. Allow a minimum of fifteen (15) working days for review. Additional time may be required for further review and/or coordination with consultants and subsequent Submittals as determined by the Architect.
 - b. If a resubmittal is necessary, process the same as the original Submittal.
 - c. No extension of Contract Time will be authorized because of failure to transmit Submittals to the Architect sufficiently in advance of the Work to permit processing.
- C. Submittal Preparation: The Architect will not accept Submittals received without the attached 'Submittal Cover Sheet'. The Contractor shall stamp the 'Submittal Cover Sheet' with an action stamp. The Contractor shall mark the stamp appropriately to indicate the action taken. **Submittals shall be pre-reviewed by the Contractor PRIOR to submittal to the Architect for review.** See Paragraph 1.6.C.1 of this Section for additional information.
1. Use the 'Submittal Cover Sheet' attached at the end of this Section for all Submittals.
 2. Complete all information required on the 'Submittal Cover Sheet'. Failure to do so may result in return of the Submittal with No Action Taken. No extension of Contract Time will be authorized because of failure to comply with this procedure.
- D. Contractor's Transmittal: The Architect will not accept Submittals received from sources other than the Contractor.

1.5 SUBMITTAL SCHEDULE

- A. Submittal Schedule: Submit three copies of the Submittal Schedule to the Architect. Arrange the following information in a tabular format:
1. Scheduled date for first Submittal
 2. Specification Section number and title

3. Submittal category (action or informational)
 4. Name of Subcontractor
 5. Description of the Work covered
 6. Scheduled date for final release or approval
- B. Submit the Submittal Schedule, arranged in chronological order by dates required by the Contractor's Construction Schedule. Include time required for review, resubmittal, ordering, manufacturing, fabrication and delivery when establishing dates.
1. Coordinate the Submittal Schedule with the List of Subcontractors, the Schedule of Values and Contractor's Construction Schedule.
 2. Initial Submittal: Submit an Initial Submittal Schedule concurrently with the Initial Construction Schedule. Include Submittals required during the first 60 days of construction. List those required to maintain orderly progress of the Work and those required early because of long lead time for manufacture, fabrication or delivery.
 3. Final Submittal: Submit a Final Submittal Schedule concurrently with the Final Contractor's Construction Schedule. Include all remaining Submittals. All Submittals are required to be submitted by the Contractor within ninety (90) days of the date of Notice to Proceed.
- C. Distribution: Following response to the initial Submittal, print and distribute copies to the Architect, Owner, subcontractors, and other parties required to comply with submittal dates indicated. Post copies in the project meeting room and field office.
1. When revisions are made, distribute to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in construction activities.
- D. Schedule Updating: Revise the schedule after each meeting or activity where revisions have been recognized or made. Issue the updated schedule concurrently with the report of each meeting.

1.6 SUBMITTALS

A. Shop Drawings:

1. Submit newly prepared information drawn accurately and to scale. Highlight, circle or otherwise indicate deviations from the Contract Documents. Do not reproduce Contract Documents or copy standard information as the basis of Shop Drawings. Standard information prepared without specific reference to the Project is not a Shop Drawing.
2. Shop Drawings include fabrication and installation drawings, setting diagrams, schedules, patterns, templates and similar drawings. Include the following information:
 - a. Dimensions
 - b. Identification of products and materials included by sheet and detail number
 - c. Notation of dimensions established by field measurement

- d. Submit Shop Drawings electronically through the construction administration software for the Architect's review.
- e. The Architect will return Submittals electronically and indicate action taken.
- f. Maintain a complete set of Shop Drawings on site during construction.
- g. Maintain a set of marked up Shop Drawings as part of the project record documents to be turned over to the Owner at Contract Closeout.
- h. Do not use Shop Drawings without an appropriate final stamp indicating action taken.

B. Product data

- 1. Collect and assemble Product Data into a single Submittal for each element or system of construction. Product Data includes printed information such as manufacturer's installation instructions, catalog cuts, standard color charts, roughing-in diagrams and templates, standard wiring diagrams and performance curves.
- 2. Mark each copy to show applicable choices and options. Where printed Product Data includes information on product options that are not required or are not being used, mark Product Data to indicate the applicable products and information. Include the following information:
 - a. Manufacturer's printed recommendations
 - b. Compliance with trade association standards
 - c. Compliance with recognized testing agency standards
 - d. Application of testing agency labels and seals
 - e. Notation of dimensions verified by field measurement
 - f. Notation of coordination requirements
 - g. Submit Product Data electronically through the construction administration software for the Architect's review.
 - h. The Architect will return Product Data electronically and indicate action taken.
 - i. Maintain a complete set of Product Data on site during construction.
 - j. Maintain a set of marked up Product Data as part of the project record documents to be turned over to Owner at Contract Closeout.
 - k. Do not use Product Data without an appropriate final stamp indicating action taken.

C. Action Stamp: **The Contractor will thoroughly review and stamp Submittals** with their action stamp. The Contractor shall mark the stamp appropriately to indicate the action taken.

- 1. Contractor's review notations and action stamp shall be applied with **GREEN** color ink

D. Distribution: Furnish final approved Submittals to installers, subcontractors, suppliers, manufacturers, fabricators, and all others required for performance of construction activities.

1.7 SAMPLES

- A. Where required by individual specification sections, submit full-size, fully fabricated Samples cured and finished as specified and physically identical to the material or product proposed. Samples include partial sections of manufactured or fabricated components, cuts or containers of materials, physical material samples, color range sets or swatches showing color, texture, and pattern.
 - 1. Mount or display Samples in a manner to facilitate review of qualities indicated. Prepare Samples to match the Architect's sample or in accordance with the product specifications. Include the following:
 - a. Specification Section number and reference
 - b. Generic description of the Sample
 - c. Sample source
 - d. Product name or name of the manufacturer
 - e. Compliance with recognized standards
 - f. Availability and delivery time
 - 2. Submit Samples for review of size, kind, color, pattern and texture. Submit Samples for a final check of these characteristics with other elements and a comparison of these characteristics between the final Submittal and the actual component as delivered and installed.
 - a. Where variation in color, pattern, texture or other characteristic is inherent in the material or product represented, submit at least 3 multiple units that show approximate limits of the variations.
 - b. Refer to other Specification Sections for requirements for Samples that illustrate workmanship, fabrication techniques, details of assembly, connections, operation, and similar construction characteristics.
 - c. Samples not incorporated into the Work, or otherwise designated as the Owner's property, are the property of the Contractor and shall be removed from the site prior to Substantial Completion.
 - 3. Submit a full set of choices where Samples are submitted for selection of color, pattern, texture or similar characteristics from a range of choices as specified.
 - 4. The Architect will review and return preliminary Submittals with the Architect's notation, indicating selection and other action.

1.8 QUALITY ASSURANCE SUBMITTALS

- A. Submit Quality Control Submittals, including design data, certifications, manufacturer's instructions, manufacturer's field reports and other quality control submittals as required under other Sections of the Specifications.
- B. Certifications: Where other Sections of the Specifications require certification that a product, material or installation complies with specified requirements, submit a certification from the manufacturer certifying compliance with the specified requirements. The Architect reserves the right to require this certification to be notarized.

1. The Certification shall be signed by an officer of the manufacturer or other individual authorized to sign documents on behalf of the company.
- C. Inspection and Test Reports: Requirements for submittal of inspection and test reports from independent testing agencies are specified in Division 1 Section "Quality Requirements."

1.9 ARCHITECT'S ACTION

- A. Except for submittals for the record or information, where action and return is required, the Architect will review each Submittal, mark to indicate action taken, and return promptly.
1. Compliance with specified characteristics is the Contractor's responsibility.
- B. Action Stamp: The Architect will stamp each Submittal with a uniform action stamp. The Architect's review notations and action stamp shall be applied with **RED** color ink. The Architect will mark the stamp to indicate the action taken, as follows:
1. **NO EXCEPTION TAKEN:** The Work covered by the Submittal may proceed without further submittal, provided it complies with requirements of the Contract Documents. Final payment depends on that compliance.
 2. **EXCEPTION(S) NOTED:** The Work covered by the Submittal may proceed provided it complies with notations or corrections on the Submittal and requirements of the Contract Documents. Final payment depends on that compliance.
 3. **SUBMIT SPECIFIED:** Do not proceed with Work covered by the Submittal, including purchasing, fabrication, delivery or other activity. Prepare a new Submittal indicating specified material; resubmit without delay.
 4. **REVISE & RESUBMIT:** Do not proceed with Work covered by the Submittal, including purchasing, fabrication, delivery or other activity. Revise or prepare a new Submittal according to the notations; resubmit without delay. Repeat if necessary to obtain different action mark.
 5. **REJECTED:** Do not proceed with Work covered by the Submittal, including purchasing, fabrication, delivery or other activity. Do not resubmit a revised copy; prepare a new Submittal according to the notations; resubmit without delay. Repeat if necessary to obtain different action mark.
- C. Unsolicited Submittals: The Architect will take no action on unsolicited submittals.

END OF SECTION 013300

SUBMITTAL COVER SHEET
(Attach to each copy of each submittal)

PROJECT NAME & NUMBER _____

ARCHITECT:



Crabtree, Rohrbaugh & Associates - Architects

250 West Main Street, Suite 200

Charlottesville, VA 22902

Virginia • Pennsylvania • Maryland • West Virginia

ENGINEER: _____

CONTRACTOR: _____

SUBCONTRACTOR/SUPPLIER: _____

MANUFACTURER: _____

ITEM SUBMITTED: _____

SUBMITTAL NO. _____

SPECIFICATION SECTION NO. _____

PARAGRAPH NO. _____

DRAWING REFERENCE _____

DETAIL NO. _____

CERTIFICATION: (Circle One)

- A. Certified to comply with Drawings and Specifications.
- B. Certified to comply with Drawings and Specifications except as noted on Contractor attachment(s)

Signature: Subcontractor/Supplier

Date

Signature: Contractor

Date

Contractor's Action Stamp Here

Architect's Action Stamp Here

SUBMITTAL DEVIATION SHEET
(Attach this sheet behind Submittal Cover Sheet)

PROJECT NAME AND NUMBER: _____

ARCHITECT: _____



Crabtree, Rohrbaugh & Associates - Architects

250 West Main Street, Suite 200

Charlottesville, VA 22902

Virginia • Pennsylvania • Maryland • West Virginia

ENGINEER: _____

CONTRACTOR: _____

SUBCONTRACTOR/SUPPLIER: _____

PRODUCT SPECIFIED: _____

SPECIFICATION SECTION NO. _____

PARAGRAPH NO. _____

DRAWING REFERENCE _____

DETAIL NO. _____

DESCRIPTION OF DEVIATION: _____

Signature: Subcontractor/Supplier

Date

Signature: Contractor

Date

ARCHITECT/ENGINEER REMARKS:

SECTION 014000 - QUALITY REQUIREMENTS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for quality assurance and quality control.
- B. Testing and inspecting services are required to verify compliance with requirements specified or indicated. These services do not relieve the Contractor of responsibility for compliance with the requirements of the Contract Document.
 - 1. Specific quality-control requirements for individual construction activities are specified in the Sections that specify those activities. Requirements in those Sections may also cover production of standard products.
 - 2. Specified tests, inspections, and related actions do not limit the Contractor's quality-control procedures that facilitate compliance with the requirements of the Contract Document.
 - 3. Requirements for the Contractor to provide quality-control services required by the Architect, Owner or authorities having jurisdiction are not limited by the provisions of this Section.
- C. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Construction Progress Documentation" for developing a schedule of required tests and inspections
 - 2. Division 1 Section "Cutting and Patching" for repair and restoration of construction disturbed by testing and inspecting activities
 - 3. Divisions 2 through 33 Sections for specific test and inspection requirements

1.3 DEFINITIONS

- A. Quality-Assurance Services: Activities, actions and procedures performed before and during execution of the Work to guard against defects and deficiencies and to ensure that proposed construction complies with Project requirements.
- B. Quality-Control Services: Tests, inspections, procedures and related actions during and after execution of the Work to evaluate that completed construction complies with Project

requirements. Services do not include contract enforcement activities performed by the Architect.

- C. Mockups: Full-size, physical example assemblies to illustrate finishes and materials. Mockups are used to verify selections made under Sample submittals to demonstrate aesthetic effects and, where indicated, qualities of materials and execution, and to review construction, coordination, testing, or operation. Samples are not mockups.
- D. Testing Agency: An entity engaged to perform specific tests, inspections, or both. Testing laboratory shall mean the same as testing agency.

1.4 DELEGATED DESIGN

- A. Performance and Design Criteria: Where professional design services or certifications by a design professional are specifically required of the Contractor by the Contract Documents, provide products and systems complying with the specific performance and design criteria indicated.
 - 1. If the criteria indicated is not sufficient to perform the services or certifications required, submit a written request for additional information to the Architect.

1.5 REGULATORY REQUIREMENTS

- A. Copies of Regulations: Obtain copies of applicable regulations and retain at the Project site to be available for reference by parties who have a reasonable need.

1.6 SUBMITTALS

- A. Qualification Data: For testing agencies specified in "Quality Assurance" Article to demonstrate their capabilities and experience. Include proof of qualifications in the form of a recent report on the inspection of the testing agency by a recognized authority.
- B. Delegated-Design Submittal: In addition to Shop Drawings, Product Data and other required submittals, submit a statement, signed and sealed by the responsible design professional, for each product and system specifically assigned to the Contractor to be designed or certified by a design professional, indicating that the products and systems are in compliance with the performance and design criteria indicated. Include a list of codes, loads and other factors used in performing these services.
- C. Schedule of Tests and Inspections: Prepare in tabular form and include the following:
 - 1. Specification Section number and title
 - 2. Description of test and inspection
 - 3. Identification of applicable standards
 - 4. Identification of test and inspection methods
 - 5. Number of tests and inspections required

6. Time schedule or time span for tests and inspections
7. Entity responsible for performing tests and inspections
8. Requirements for obtaining samples
9. Unique characteristics of each quality-control service

D. Reports: Prepare and submit certified written reports that include the following:

1. Date of issue
2. Project title and number
3. Name, address, and telephone number of testing agency
4. Dates and locations of samples and tests or inspections
5. Names of individuals making tests and inspections
6. Description of the Work and test and inspection method
7. Identification of product and Specification Section
8. Complete test or inspection data
9. Test and inspection results and an interpretation of test results
10. Ambient conditions at the time of sample taking and testing and inspecting
11. Comments or professional opinion on whether tested or inspected Work complies with the requirements of the Contract Documents
12. Name and signature of laboratory inspector
13. Recommendations on retesting and re-inspecting

E. Permits, Licenses, and Certificates: For the Owner's records, submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, correspondence, records and similar documents, established for compliance with standards and regulations bearing on performance of the Work.

1.7 QUALITY ASSURANCE

- A. Fabricator Qualifications: A firm experienced in producing products similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- B. Factory-Authorized Service Representative Qualifications: An authorized representative of manufacturer who is trained and approved by the manufacturer to inspect the installation of the manufacturer's products that are similar in material, design, and extent to those indicated for this Project.
- C. Installer Qualifications: A firm or individual experienced in installing, erecting, or assembling work similar in material, design and extent to that indicated for this Project, whose work has resulted in construction with a record of successful in-service performance.
- D. Manufacturer Qualifications: A firm experienced in manufacturing products or systems similar to those indicated for this Project and with a record of successful in-service performance.
- E. Professional Engineer Qualifications: A professional engineer who is qualified and legally licensed to practice in the jurisdiction where the Project is located and who is experienced in providing engineering services of the kind indicated. Engineering services are defined as those

performed for installations of the system, assembly or product that are similar to those indicated for this Project in material, design and extent.

- F. Specialists: Certain sections of the Specifications require that specific construction activities shall be performed by entities who are recognized experts in those operations. Specialists shall satisfy the qualification requirements indicated and shall be engaged for the activities indicated.
 - 1. The requirement for specialists shall not supersede building codes and similar regulations governing the Work, nor interfere with local trade-union jurisdictional settlements and similar conventions.

- G. Testing Agency Qualifications: An agency with the experience and capability to conduct the testing and inspecting indicated, as documented by ASTM E 548, and that specializes in the types of tests and inspections to be performed.

- H. Preconstruction Testing: A qualified testing agency shall perform preconstruction testing for compliance with specified requirements for performance and test methods.
 - 1. Contractor responsibilities include the following:
 - a. Provide test specimens and assemblies representative of proposed materials and construction. Provide sizes and configurations of assemblies to adequately demonstrate capability of the product to comply with performance requirements.
 - b. Submit specimens in a timely manner with sufficient time for testing and analyzing results to prevent delaying the Work.
 - c. Fabricate and install test assemblies using installers who will perform the same tasks for this Project.
 - d. When testing is complete, remove assemblies; do not reuse materials on the Project.
 - 2. Testing Agency Responsibilities: Submit a certified written report of each test, inspection, and similar quality-assurance service to the Architect, with copy to the Contractor. Interpret tests and inspections and state in each report whether the tested and inspected work complies with or deviates from the requirements of the Contract Documents.

- I. Mockups: Before installing portions of the Work requiring mockups, build mockups for each form of construction and finish required to comply with the following requirements, using materials indicated for the completed Work:
 - 1. Build mockups in the location and of the size indicated or, if not indicated, as directed by the Architect.
 - 2. Notify the Architect at least seven days in advance of dates and times when mockups will be constructed.
 - 3. Demonstrate the proposed range of aesthetic effects and workmanship.
 - 4. Obtain the Architect's approval of mockups before starting work, fabrication, or construction.
 - 5. Maintain mockups during construction in an undisturbed condition as a standard for judging the completed Work.
 - 6. Demolish and remove mockups when directed, unless otherwise indicated.

1.8 QUALITY CONTROL

- A. Owner Responsibilities: Where quality-control services are indicated as the Owner's responsibility, the Owner will engage a qualified testing agency to perform these services.
1. The Owner will furnish the Contractor with the names, addresses and telephone numbers of the testing agencies engaged and a description of the types of testing and inspecting each is engaged to perform.
 2. The Costs for retesting and reinspecting construction that replaces or is necessitated by work that failed to comply with the requirements of the Contract Documents will be charged to the Contractor.
- B. Contractor Responsibilities: Unless otherwise indicated, provide quality-control services specified and required by authorities having jurisdiction.
1. Where services are indicated as the Contractor's responsibility, engage a qualified testing agency to perform these quality-control services.
 - a. The Contractor shall not employ the same entity engaged by the Owner, unless agreed to in writing by the Owner.
 2. Notify testing agencies at least 24 hours in advance of the time when Work that requires testing or inspecting will be performed.
 3. Where quality-control services are indicated as the Contractor's responsibility, submit a certified written report, in duplicate, of each quality-control service.
 4. Testing and inspecting requested by the Contractor, which are not required by the Contract Documents, are the Contractor's responsibility.
 5. Submit additional copies of each written report directly to authorities having jurisdiction, when they so direct.
- C. Special Tests and Inspections: The Owner will engage a testing agency to conduct special tests and inspections required by authorities having jurisdiction as the responsibility of the Owner.
1. Testing agency will notify the Architect and the Contractor promptly of irregularities and deficiencies observed in the Work during performance of its services.
 2. Testing agency will submit a certified written report of each test, inspection and similar quality-control service to the Architect, with copy to the Contractor and to authorities having jurisdiction.
 3. Testing agency will submit a final report of special tests and inspections at Substantial Completion, which includes a list of unresolved deficiencies.
 4. Testing agency will interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from the requirements of the Contract Documents.
 5. Testing agency will retest and reinspect corrected work. Costs for retesting and reinspecting construction that replaces or is necessitated by Work that failed to comply with the requirements of the Contract Documents will be charged to the Contractor.

- D. **Manufacturer's Field Services:** Where indicated, engage a factory-authorized service representative to inspect field-assembled components and equipment installation, including service connections. Report results in writing.
- E. **Retesting/Reinspecting:** Regardless of whether original tests or inspections were the Contractor's responsibility, provide quality-control services, including retesting and reinspecting, for construction that revised or replaced Work that failed to comply with the requirements established by the Contract Documents.
- F. **Testing Agency Responsibilities:** Cooperate with the Architect and the Contractor in performance of duties. Provide qualified personnel to perform required tests and inspections.
 - 1. Notify the Architect and the Contractor promptly of irregularities or deficiencies observed in the Work during performance of its services.
 - 2. Interpret tests and inspections and state in each report whether tested and inspected Work complies with or deviates from requirements.
 - 3. Submit a certified written report, in duplicate, of each test, inspection and similar quality-control service through the Contractor.
 - 4. Do not release, revoke, alter or increase the requirements of the Contract Documents or approve or accept any portion of the Work.
 - 5. Do not perform any duties of the Contractor.
- G. **Associated Services:** Cooperate with agencies performing required tests, inspections, and similar quality-control services, and provide reasonable auxiliary services as requested. Notify the agency sufficiently in advance of operations to permit assignment of personnel. Provide the following:
 - 1. Access to the Work
 - 2. Incidental labor and facilities necessary to facilitate tests and inspections
 - 3. Adequate quantities of representative samples of materials that require testing and inspecting. Assist agency in obtaining samples
 - 4. Facilities for storage and field-curing of test samples
 - 5. Delivery of samples to testing agencies
 - 6. Preliminary design mix proposed for use for material mixes that require control by the testing agency.
 - 7. Security and protection for samples and for testing and inspecting equipment at the Project site.
- H. **Coordination:** Coordinate the sequence of activities to accommodate required quality-assurance and quality-control services with a minimum of delay and to avoid the necessity of removing and replacing construction to accommodate testing and inspecting.
 - 1. Schedule times for tests, inspections, obtaining samples, and similar activities
- I. **Schedule of Tests and Inspections:** Prepare a schedule of tests, inspections, and similar quality-control services required by the Contract Documents. Submit the schedule within 30 days of the date established for the Notice to Proceed.

1. Distribution: Distribute the schedule to the Owner, the Architect, the testing agencies and each party involved in performance of portions of the Work where tests and inspections are required.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION

3.1 REPAIR AND PROTECTION

- A. General: On completion of testing, inspecting, sample taking and similar services, repair damaged construction and restore substrates and finishes.
 1. Provide materials and comply with the installation requirements specified in other Sections of these Specifications. Restore patched areas and extend restoration into adjoining areas in a manner that eliminates evidence of patching.
 2. Comply with the Contract Document requirements for Division 1 Section "Cutting and Patching."
- B. Protect construction exposed by or for quality-control service activities.
- C. Repair and protection are the Contractor's responsibility, regardless of the assignment of responsibility for quality-control services.

END OF SECTION 014000

SECTION 014100 – SAFETY

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. General: This Section specifies the required safety procedures for this Project.
- B. It is recognized that the safety of all personnel is the responsibility of the Contractor. It is the contractual obligation of the Contractor to adhere to all requirements of the Occupational Health and Safety Act (OSHA), as well as Local and State safety rules and regulations. The Contractor shall assure the safety of their personnel by providing all protection and safety devices, covers, etc. as they relate to the safe conduct of their work in accordance with all Local, State and Federal regulations
- C. Responsibilities of the Contractor shall be as follows:
 - 1. Inspect and maintain safe working conditions on the jobsite.
 - 2. Maintain a competent person on site at all times designated to make safety inspections and to serve as the designated representative in charge of safety during an inspection by OSHA.
 - 3. The Contractor's responsibilities and corresponding authority is as defined in the General Conditions of the Contract for Construction.
 - 4. Provide regular and periodic safety inspections and reports by the contractors safety representative. Inspections and reports shall be performed at least once every three months.
 - 5. Provide a safety representative who is trained in First Aid and CPR.
 - 6. Separation of county staff from workers will be required to the greatest extent possible.

PART 2 - PRODUCTS (Not applicable)

PART 3 - EXECUTION

3.1 ACCIDENTS

- A. The Contractor shall notify the Owner of any personal injury at the project site that could require medical treatment. Also, any damage to property arising in connection with the Contractor's performance should be brought to the attention of the Owner as promptly as possible after the occurrence of such injury or damage, but no more than 24 hours after the

occurrence. Within 48 hours of such occurrence, the Contractor shall furnish to the Owner a complete written report of such injury or damage. Accident Reports shall include specific actions taken by the Contractor to preclude recurrence of similar incidents.

3.2 EMERGENCY DATA

- A. The Contractor shall provide the Owner with the following emergency data prior to beginning work at the project site:
1. Emergency care facility to be utilized, including address and telephone number
 2. Insurance company and local agent/name, address and telephone number
 3. Detailed description of corporation or company safety program
 4. Employees qualified in type of first aid; list employee and associated skills
 5. Detailed description of specifically tailored job site safety program
 6. Identify corporate and job site safety officer
 7. Submit weekly TOOL BOX SAFETY TALK program/meeting minutes including:
 - a. Day of week
 - b. Time of day
 - c. Location
 - d. Attendance record
 - e. Agenda
 - f. Unsafe items previously discussed and date of correction
 - g. Identify on-site personnel with First Aid training
 8. All applicable MSDS Program sheets. (Include numbered pages and Table of Contents)
 9. Submit completed hazardous substance survey form
 10. Review project "Emergency Response Plan" with the Owner

3.3 SAFETY AGREEMENT

- A. The Contractor shall review and comply with the following Safety Agreement before beginning work:
1. As the Contractor under this Contract, you have, by accepting this Contract, obligated yourself to conduct all your operations within this Safety Agreement.
 2. The Contractor agrees that the prevention of accidents to employees engaged in the Work under this Agreement is the responsibility of the Contractor.
 3. The Contractor agrees to comply with all laws, regulations and codes concerning safety as shall be applicable to the Work and to the safety standards established during the progress of the Work. When so ordered, the Contractor agrees to stop any part of the Work which any applicable agency may deem unsafe, until corrective measures satisfactory to the Owner and in accordance with the applicable Federal and/or State regulations have been taken and further agrees to make no claim for damages growing out of such stoppages. Should the Contractor neglect to adopt such corrective measures, the Owner may elect to hire an entity, perform the corrections and deduct the cost from

payments due or to become due the Contractor. Failure on the part of the Owner to stop unsafe practices shall in no way relieve the Contractor of their responsibility.

4. The Contractor realizes that an effective accident prevention program is to the mutual benefit the Contractor through improved employee and public relations and through increased efficiency and production.
5. Your attention is directed, but not limited to the following items:

3.4 HOUSEKEEPING

- A. Indiscriminate accumulations of debris, waste or scrap in work areas will not be permitted. (Areas will be designated for storage or disposal). All materials, tools and equipment must be stored in an orderly manner in designated areas.

3.5 PERSONAL PROTECTION EQUIPMENT

- A. Contractors must furnish their employees with the proper type of personal protective equipment as required by the operations being performed, including, but not necessarily limited to the following:
 1. Hard Hats must be furnished to employees and worn at ALL times when on the project, whether or not an overhead hazard exists or what state of construction the project may be in.
 2. The Owner requires that appropriate attire be worn at all times while employees are working on-site. Appropriate attire shall be as deemed necessary by the Owner and in accordance with all applicable OSHA regulations.

3.6 SAFETY MEETINGS

- A. The Contractor is required to conduct, and all employees are required to attend Tool Box type safety meetings once a week. The meetings may be presided over by either the Contractor's foreman or another competent representative designated by the Contractor.

3.7 FIRE PROTECTION

- A. The Contractor must supply approved fire extinguishers for emergency use within his own immediate area of operation, including the Contractor's office, tool and storage enclosures.

3.8 TREATMENT OF INJURIES

- A. The Contractor shall require that all employees injured (no matter how slight) while working on the project, report immediately for First Aid treatment. The Contractor shall maintain adequate First Aid facilities in the field.

3.9 COOPERATION

- A. Any deviation from this course of action will be called to the attention of the Contractor for immediate correction.

3.10 INSTALLED SAFETY APPARATUS

- A. The Contractor is responsible for the installation of any safety apparatus required to perform the work of this project.

3.11 WEAPONS POLICY

- A. All persons are prohibited from carrying, possessing or storing a handgun, firearm, or weapon of any kind while on the Project site, regardless of whether the person has registered the weapon or is licensed to carry a concealed weapon. Failure to abide by all terms and conditions of this policy may result in discipline up to and including termination. Further, carrying any weapon onto the Owner's property in violation of this policy will be considered an act of criminal trespass and possession of a weapon will be grounds for immediate removal of the person from the Project site, and may result in prosecution.

3.12 LISTENING DEVICES

- A. The playing of radios or any other type of personal listening devices, using any type of speaker, including, but not limited to, headphones and ear buds, will not be permitted on this Project.

3.13 TOBACCO PRODUCTS

- A. Smoking or the use of any tobacco products and vapor pens is not permissible on this project site.

3.14 DRUGS AND ALCOHOL

- A. Any personnel caught possessing or using/consuming illegal drugs or alcoholic beverages on any part of Berkeley County-owned property will be removed from the Project and will be prosecuted to the fullest extent of the law.

END OF SECTION 014100

SECTION 015000 - TEMPORARY FACILITIES & CONTROLS

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes requirements for temporary facilities and controls, including temporary utilities, support facilities, and security and protection.
- B. Temporary utilities include, but are not limited to, the following:
 - 1. Temporary water service and distribution.
 - 2. Temporary electrical power service and light.
 - 3. Storm facilities.
- C. Support facilities include, but are not limited to, the following:
 - 1. Field offices and storage sheds.
 - 2. Handwashing stations and supplies, hand sanitizers and dispensers, and cleaning and sanitizing requirements.
 - 3. Temporary roads.
 - 4. Dewatering facilities.
 - 5. Temporary enclosures.
 - 6. Hoists.
 - 7. Temporary project identification signs and bulletin boards.
 - 8. Waste disposal services.
 - 9. Rodent and pest control.
 - 10. Construction aids and miscellaneous services and facilities
 - 11. Temporary heat
 - 12. Ventilation
 - 13. Sanitary facilities, including drinking water
- D. Security and protection facilities include, but are not limited to, the following:
 - 1. Temporary Fire Protection
 - 2. Barricades, warning signs, and lights
 - 3. Enclosure fencing for the site
 - 4. Environmental protection

1.3 RESPONSIBILITIES

A. The Contractor is responsible for the following:

1. Installation, operation, maintenance, and removal of each temporary facility, as well as the costs and use charges associated with each facility unless noted otherwise.
2. Temporary electric power service and distribution. Prior to temporary utility availability, provide trucked in service.
3. Temporary lighting.
4. Plug-in electric power cords and extension cords, supplementary plug-in task lighting, and special lighting.
5. Multi-phase power service or power requirements in excess of 120-V, single phase, temporary power. Electric service for welding.
6. Temporary enclosure of the building.
7. Temporary heat, ventilation, humidity control.
8. In accordance with all CDC recommendations and any state or federally mandated protocols or requirements, proper cleaning and sanitizing of its own field office, storage sheds, tools, and support facilities for which it is responsible.
9. Temporary toilets, including disposable supplies.
10. Handwashing stations and hand sanitizers, dispensers located in each area of the site.
11. Containerized bottled-water drinking-water units.
12. Temporary water service. Prior to temporary utility availability, provide trucked in service.
13. Dewatering, including ice and snow removal of the building pad and in areas of foundation excavation and for all general construction activities.
14. Temporary roads required to complete construction activities.
15. All hoisting requirements for construction activities
16. Continuous removal and disposal of general construction waste and debris generated by construction activities.
17. Collection and proper disposal of hazardous, dangerous, unsanitary or other harmful waste material.
18. Secure enclosure and lockup.
19. Secure lockup of tools, materials and equipment.
20. Construction aids and miscellaneous services and facilities.
21. Job trailer or field office.
22. Storage and fabrication sheds or trailers.
23. Temporary safety facilities.
24. Temporary construction identification signs and temporary site directional signage.
25. Rodent and pest control.
26. Barricades, warning signs and lights for construction activities.
27. Enclosure fence as required by construction activities. Refer to site drawings for extent.
28. Environmental protection for construction activities.
29. Completion of installation of the permanent heating systems for use as temporary heat and air conditioning, a minimum of 120 days prior to the date of Substantial Completion for each area of the building or phase of construction.
30. Operation and maintenance of the permanent HVAC systems when used for temporary heat and air conditioning after enclosure of the building, beginning 120 days prior to the date of Substantial Completion for each area of the building or phase of construction.

1.4 USE CHARGES

- A. General: Cost or use charges for temporary facilities are not chargeable to the Owner or Architect unless specifically noted otherwise. The Owner will not accept the Contractor's cost or use charges for temporary services or facilities as a basis of claim for an adjustment in the Contract Sum or the Contract Time.
- B. Water Service: The Owner will pay water service use charges, for all metered water used by all entities engaged in construction activities at the Project Site.
- C. Water Service within Renovation Areas: Temporary water services within the existing building area to be renovated may be developed from existing building utilities approved by the Owner. Water service use charges for incidental use in renovation areas will be paid for by the Owner if they are developed from sources currently metered by the Owner. Such services may be developed only if adequate service is available without disruption to existing facility operations and must be limited to work directly associated with renovation of the existing facility.
- D. Electric Power Service: The Owner will pay electric power service use charges, for all metered electric power used by all entities engaged in construction activities at the Project Site. The Owner's electric service is not permitted to be used for temporary heat.
- E. Electric Power Service within Renovation Areas: Incidental electrical power use in renovation areas may be developed from existing facilities at locations approved by the Owner. Electric power service use charges for incidental use in renovation areas will be paid for by the Owner if they are developed from sources currently metered by the Owner. Incidental power usage shall be defined as temporary lighting and temporary power for small tools, (120v). Existing power sources may not be utilized for temporary heat, welding, or other high voltage power requirements.
- F. Fuel for Temporary Heat: As described in the Temporary Heat paragraph.

1.5 SUBMITTALS

- A. Temporary Utilities: The Contractor shall submit reports of tests, inspections, meter readings and similar procedures performed on temporary utilities.
- B. Implementation and Termination Schedule: Within 15 days of the date established for submittal of the Contractor's Construction Schedule, the Contractor shall submit a schedule indicating implementation and termination dates of each temporary utility for which the Contractor is responsible.

1.6 QUALITY ASSURANCE

- A. Regulations: The Contractor shall comply with industry standards and with applicable laws and regulations of authorities having jurisdiction including, but not limited to, the following:
 - 1. Building code requirements

2. Health and safety regulations
 3. Utility company regulations
 4. Police, fire department and rescue squad rules
 5. Environmental protection regulations
- B. Standards: The Contractor shall comply with NFPA 241 "Standard for Safeguarding Construction, Alterations, and Demolition Operations", ANSI-A10 Series standards for "Safety Requirements for Construction and Demolition", and NECA Electrical Design Library "Temporary Electrical Facilities".
1. Electrical Service: Comply with NEMA, NECA and UL standards and regulations for temporary electric service. Install service to comply with NFPA 70.
- C. Inspections: Arrange for authorities having jurisdiction to inspect and test each temporary utility before use. Obtain required certifications and permits.

1.7 PROJECT CONDITIONS

- A. Temporary Utilities: The Contractor shall prepare a schedule indicating dates for implementation and termination of each temporary utility for which the Contractor is responsible. At the earliest feasible time, when acceptable to the Owner, change over from use of temporary services to use of permanent services.
1. Temporary Use of Permanent Facilities: The Contractor shall assume responsibility for its operation, maintenance and protection during use as a construction facility prior to the Owner's acceptance, regardless of previously assigned responsibilities. The Contractor shall make permanent facilities available in accordance with the approved Contractor's Construction Schedule.
 2. Warranty Period: The Warranty Period for the entire project shall begin on the date of Substantial Completion, regardless of the start-up date for use as a temporary or permanent facility, including but not limited to materials and equipment.
- B. Conditions of Use: Keep temporary services and facilities clean and neat in appearance. Operate in a safe and efficient manner. Relocate temporary services and facilities as the Work progresses. Do not overload facilities or permit them to interfere with progress. Take necessary fire-prevention measures. Do not allow hazardous, dangerous or unsanitary conditions, or public nuisances to develop or persist on-site.

1.8 EXISTING BUILDING SYSTEMS

- A. The Contractor, in submitting a bid, certifies that they have familiarized themselves with all existing building conditions and systems encountered. The Contractor shall protect and maintain all existing building systems, functions and utilities during the construction period or until new Work replaces the aforementioned.

- B. System Interruption: If there is a need to interrupt any existing building function, utility or system for an extended period of time, the Contractor must coordinate this with the Owner and provide temporary provisions in advance to replace the interrupted function, utility or system.
- C. Existing Systems, Functions and Utilities: The following is a partial list, which is not all inclusive, of the existing Systems, Functions and Utilities:
 - 1. Existing electrical service, including all associated systems and functions
 - 2. Existing water service, domestic and hot water systems
 - 3. Sanitary and storm water systems
 - 4. Existing HVAC systems
 - 5. Existing BAS and/or ATC systems
 - 6. Existing lighting systems
 - 7. Existing data and communications systems
 - 8. Existing structural systems
 - 9. Existing fire alarm systems
 - 10. Existing building security systems

PART 2 - PRODUCTS

2.1 MATERIALS

- A. General: The Contractor shall provide new materials. If acceptable to the Owner or Architect, undamaged, previously used materials in serviceable condition may be used. Provide materials suitable for the use intended.
- B. Lumber and Plywood: Comply with the requirements of Division 6 Section "Rough Carpentry".
 - 1. For job-built temporary offices, shops, and sheds within the construction area, provide UL-labeled, fire-treated lumber and plywood for framing, sheathing, and siding.
 - 2. For signs and directory boards, provide exterior-type, Grade BB, high-density concrete form grade overlay plywood of sizes and thicknesses indicated.
- C. Tarpaulins: Provide waterproof, fire-resistant, UL-labeled tarpaulins with flame-spread rating of 15 or less. For temporary enclosures, provide translucent, nylon-reinforced, laminated polyethylene or polyvinyl chloride, fire-retardant tarpaulins.
- D. Water: Provide potable water approved by local health authorities.
- E. Open-Mesh Fencing (Driven Posts): Provide 0.12-inch thick, galvanized 2-inch chain-link fabric fencing 6 feet high with galvanized steel pipe posts, 1-1/2 inches I.D. for line posts and 2-1/2 inches I.D. for corner posts.
- F. Open-Mesh Fencing (Portable): Provide 0.12-inch thick, galvanized 2-inch chain-link fabric fencing 6 feet high on portable frames with self-standing T-foot posts

2.2 EQUIPMENT

- A. General: The Contractor shall provide new equipment. If acceptable to the Owner or Architect, undamaged, previously used equipment in serviceable condition may be used. Provide equipment suitable for the use intended.
- B. Water Hoses: Provide 3/4-inch heavy-duty, abrasion-resistant, flexible rubber hoses 100 feet long, with pressure rating greater than the maximum pressure of the water distribution system. Provide adjustable shutoff nozzles at point of hose discharge.
- C. Electrical Outlets: Provide properly configured, NEMA-polarized outlets to prevent insertion of 110- to 120-V plugs into higher voltage outlets. Provide 120-V, single phase, ground-fault outlets at 100' on center in corridor areas and spaces larger than 800 square feet. Provide receptacle outlets equipped with ground-fault circuit interrupters, reset button, and pilot light for connection of power tools and equipment.
- D. Electrical Power Cords: Provide grounded extension cords. Use hard-service cords where exposed to abrasion and traffic. Provide waterproof connectors to connect separate lengths of electric cords if single lengths will not reach areas where construction activities are in progress. Do not exceed safe length-voltage ratio.
- E. Lamps and Light Fixtures: Provide general service lamps of wattage required for adequate illumination. At a minimum, install weatherproof sockets complete with lamps at 20' on center in all corridor areas, circulation areas and all spaces over 400 square feet. Provide guard cages or tempered-glass enclosures where exposed to breakage. Provide exterior fixtures where exposed to moisture.
- F. Heating Units: Provide temporary heating units that have been tested and labeled by UL, FM or another recognized trade association related to the type of fuel being consumed.
- G. Temporary Offices: The Contractor shall provide its own prefabricated or mobile units with lockable entrances, operable windows and serviceable finishes.
 - 1. The Contractor, if their temporary office trailer is not sufficiently sized to accommodate the needs of regular job conferences, shall provide and maintain, in addition to their job trailer, a meeting trailer for such use, for the duration of the Project. The meeting trailer shall be complete with a heating and air-conditioning unit capable of maintaining a temperature range of between 65°F and 70°F year round. At a minimum, include the following fixtures, furniture and equipment:
 - a. Conference table to comfortably accommodate at least six (6) adults
 - b. Six (6) chairs
 - c. One (1) trash receptacles
 - d. One (1) drafting table, one (1) plan rack
 - e. One (1) four-drawer locking file cabinets
 - f. One (1) 36" x 48" dry erase boards
 - 2. The General Contractor shall provide all required electrical. Use charges for all metered electrical and water will be paid by the Owner.

3. Provide daily housekeeping services, provide snow removal services and relocate the field office trailer to a secondary location should the original location serve to impede the progress and/or completion of the Project.
- H. Temporary Toilet Units: Provide self-contained, single-occupant toilet units of the chemical, aerated recirculation or combustion type. Provide units properly vented and fully enclosed with a glass-fiber-reinforced polyester shell or similar non-absorbent material.
- I. Handwashing Stations: Provide at a minimum, self-contained handwashing stations complete with clean, potable water, soap, and disposable towels.
- J. Hand Sanitizing Stations: Provide self-contained hand sanitizer dispensers complete with hand sanitizer.
- K. Fire Extinguishers: Provide hand-carried, portable, UL-rated, Class A fire extinguishers for temporary offices and similar spaces. In other locations, provide hand-carried, portable, UL-rated, Class ABC, dry-chemical extinguishers or a combination of extinguishers of NFPA-recommended classes for the exposures.
 1. Comply with NFPA 10 and NFPA 241 for classification, extinguishing agent and size required by location and class of fire exposure.
- L. First Aid Supplies: Comply with regulations of authorities having jurisdiction.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. Use qualified personnel for the installation of temporary facilities. Locate facilities where they will serve the Project adequately and result in minimum interference with performance of the Work. Relocate and modify facilities as required.
- B. The Contractor shall provide each facility ready for use when needed to avoid delay. Maintain and modify as required. Do not remove until facilities are no longer needed or are replaced by authorized use of completed permanent facilities.

3.2 TEMPORARY UTILITY INSTALLATION

- A. General: Engage the appropriate local utility company to install temporary service or connect to existing service. Where the utility company provides only part of the service, provide the remainder with matching, compatible materials and equipment. Comply with utility company recommendations.
 1. Arrange with the utility company and existing users for a time when service can be interrupted, if necessary, to make connections for temporary services.

2. Provide adequate capacity at each stage of construction. Prior to temporary utility availability, provide trucked-in services.
- B. Water Service: Install water service and distribution piping of sizes and pressures adequate for construction until permanent water service is in use.
- C. Temporary Electric Power Service: Provide weatherproof, grounded electric power service and distribution system of sufficient size, capacity and power characteristics during construction period. Include meters, transformers, overload-protected disconnects, automatic ground-fault interrupters and main distribution switch gear.
1. Power Distribution System: Install wiring overhead and rise vertically where least exposed to damage. Where permitted, wiring circuits not exceeding 125 V, ac 20 ampere rating, and lighting circuits may be nonmetallic sheathed cable where overhead and exposed for surveillance.
- D. Temporary Lighting: When an overhead floor or roof deck has been installed, provide temporary lighting with local switching.
1. Install and operate temporary lighting that will fulfill security and protection requirements without operating the entire system. Provide temporary lighting to the greater of that required by OSHA or to a minimum level of 20 fc, and that will provide adequate illumination for construction operations and traffic conditions.
- E. Temporary Heat: As described in the Temporary Heat paragraph below.
- F. Heating Facilities: As described in the Temporary Heat paragraph below.
- G. Sanitary Facilities: Sanitary facilities include temporary toilets, wash facilities, and drinking-water fixtures. Comply with regulations and health codes for the type, number, location, operation and maintenance of fixtures and facilities. Install where facilities will best serve the Project's needs.
1. Provide toilet tissue, paper towels, paper cups and similar disposable materials for each facility. Provide covered waste containers for used material.
- H. Toilets: Install self-contained toilet units. Shield toilets to ensure privacy. Use of pit-type privies will not be permitted.
1. Provide separate facilities for male and female personnel.
- I. Environmental Protection: In addition to the provisions indicated on the drawings, provide earthen embankments and similar barriers in and around excavations and sub-grade construction, sufficient to prevent flooding by runoff of storm water from heavy rains.

3.3 TEMPORARY HEAT

- A. Temporary Heat: Provide temporary heat required by construction activities, for curing or drying of completed installations, or protection of installed construction from adverse effects of low temperatures or high humidity. Select safe equipment that will not have a harmful effect on completed installations or elements being installed. Coordinate ventilation requirements to produce the ambient conditions required and minimize consumption of energy.
1. Provide temporary heat at varying stages of the Project to allow construction operations to proceed in an orderly, sequential manner. **The following stages are milestones that must be clearly identified on the Contractor's Construction Schedule** as described in Division 1 Section "Construction Progress Documentation." The stages of the project are defined as follows:
 - a. Early Stage: The duration of the Project from the start of construction to enclosure of the building. During this stage, the Contractor is responsible to provide temporary heat and any temporary enclosure required to contain the heated air necessary for construction activities. The Contractor is responsible to furnish the equipment and fuel for temporary heating.
 - b. Intermediate Stage: The duration of the Project from the time the building is wholly or partially enclosed as determined solely by the Architect but prior to the operation of the permanent HVAC equipment for construction heating. During this stage, the Contractor shall provide temporary heating to establish an ambient air temperature and appropriate humidity level in the building, or portion thereof, to maintain construction activities, including the provision of necessary equipment and fuel. A minimum ambient air temperature of 50 degrees F must be capable of being maintained throughout the area of Work receiving temporary heat and humidity control. Maintain an appropriate humidity level acceptable to material manufacturers for the installation of materials and finishes.
 - c. Final Stage: The duration of the Project after building enclosure is attained and the permanent HVAC equipment is available to provide temporary heat AND air conditioning as determined solely by the Architect. The Final Stage of construction shall be achieved at least 120 days prior to the date of Substantial Completion of each area of the building or phase of construction. An ambient air temperature of 70 degrees F must be capable of being maintained uniformly. The Contractor is responsible to provide start-up, maintenance and operation of all permanent HVAC units and provide temporary automatic temperature control wiring and devices to properly regulate the permanent devices. Further, the Contractor shall protect all ductwork, and shall install temporary filter media with a minimum rating of MERV 8 according to ASHRAE 52.2, at every return grill or air inlet to the air handling system. All temporary filters shall be fully sealed around the perimeter to seal off any dust from entering the return ductwork. All duct protection measures shall be reviewed with the CxA prior to starting up the units for use as temporary heat. Replace all filters immediately prior to Building Occupancy. The Owner will pay all use charges and fuel costs for temporary heat during the Final Stage of construction. The Contractor is responsible to have all permanent HVAC units that will provide temporary heat, wired with their required power with service disconnects and all other NEC requirements. If power cannot be provided using the permanent electrical

panel, wiring or distribution, then the Contractor must provide temporary means to meet the needs of the units. The Contractor is responsible to have all permanent gas-fired HVAC units that will be used to provide temporary heat, connected to a source for gas that will provide the necessary pressure and volume to operate the units as if they are in normal use, including compliance with applicable codes. If gas cannot be provided using the permanent gas system for the building, then the Contractor must provide temporary means to meet the needs of the units.

2. Temporary heat shall be initiated and maintained to allow the performance of Work for which a particular minimum ambient temperature must be maintained to meet the criteria described in individual sections of the technical specifications and as set forth by manufacturer's recommendations.
3. Temporary heat shall be provided to ensure that construction activities conform with the Contractor's Construction Schedule and to the scheduling sequence established by the Lead Contractor and as further directed by the Architect.
4. The term "building enclosure" refers to a level of completion of the building, or a designated portion thereof, that consists of the following:
 - a. Construction of roof structure, roof, insulation and roofing membrane
 - b. Construction of back-up masonry or exterior metal studs with exterior sheathing
 - c. Temporary enclosure of exterior wall openings. Refer to the "Temporary Enclosures" paragraph below for additional information.

B. Heating Facilities: Except where use of the permanent system is noted above, provide properly vented, self-contained LP gas or natural gas heaters with individual space thermostatic control.

1. Use of gasoline, oil or kerosene fueled space heaters is prohibited.

3.4 SUPPORT FACILITIES INSTALLATION

- A. Storage and Fabrication Facilities: Install storage and fabrication sheds or mobile trailers, sized, furnished and equipped to accommodate materials and equipment involved. Facilities may be open shelters or fully enclosed.
- B. Drinking Water Facilities: Provide containerized tap dispenser bottled water type drinking water units, including disposable paper supply.
- C. Handwashing and Hand Sanitizer Stations: In accordance with all CDC recommendations and any state or federally mandated protocols or requirements, locate handwashing stations and hand sanitizer dispensers, reasonably accessible to all workers, and at a minimum, in all active work areas of the Project.
- D. Dewatering Facilities and Drains: Maintain the site, excavations, and construction free of water, ice and snow.
- E. Temporary Enclosures: Provide temporary enclosure for protection of construction in progress and completed, from exposure, foul weather, other construction operations and similar activities.

1. Where heat is needed and the permanent building enclosure is not complete, provide temporary enclosures where there is no other provision for containment of heat. Coordinate enclosure with ventilating and material drying or curing requirements to avoid dangerous conditions and effects.
 2. Install tarpaulins securely, with non-combustible wood framing and other materials. Close openings of 25 square feet or less with plywood or similar materials.
 3. Close openings through floor or roof decks and horizontal surfaces with load bearing wood framed construction.
- F. Temporary Lifts and Hoists: Provide facilities for hoisting materials and employees. Truck cranes and similar devices used for hoisting materials are considered "tools and equipment" and not temporary facilities.
- G. Project Identification and Temporary Signs: Prepare project identification and other signs of the size indicated; install where indicated to inform the public and persons seeking entrance to the Project. Support on posts or framing of preservative treated wood or steel. Do not permit installation of unauthorized signs.
1. Project Identification Signs: Engage an experienced sign painter to apply graphics. Comply with details indicated.
- H. Collection and Disposal of Waste: Collect waste from construction areas and elsewhere daily. Comply with requirements of NFPA 241 for removal of combustible waste material and debris. Enforce requirements strictly. Do not hold materials more than 7 days during normal weather or 3 days when the temperature is expected to rise above 80 deg F. Handle hazardous, dangerous or unsanitary waste materials separately from other waste by containerizing properly. Dispose of material in a lawful manner.
- I. Rodent and Pest Control: Before foundation Work has been completed, retain a local exterminator or pest control company to recommend practices to minimize attraction and harboring of rodents, roaches and other pests. Employ this service to perform extermination and control procedures at regular intervals so the Project will be relatively free of pests and their residues at Substantial Completion. Perform control operations in a lawful manner using environmentally safe materials.
- J. Locate field offices, storage sheds, sanitary facilities and other temporary construction and support facilities for easy access. If not indicated on the drawings, verify temporary facility locations with the Owner prior to installation.
1. Maintain support facilities until near Substantial Completion.
- K. Temporary Roads: Construct and maintain temporary roads to support the required loading adequately and to withstand exposure to traffic during the construction period. To the greatest extent possible, locate temporary roads, storage areas and parking where the same permanent facilities will be located.

SECURITY AND PROTECTION FACILITIES INSTALLATION

- L. General: Except for use of permanent fire protection as soon as available, do not change over from use of temporary security and protection facilities to permanent facilities until Substantial Completion, or longer as requested by the Architect.
- M. Temporary Fire Protection: Until fire-protection needs are supplied by permanent facilities, install and maintain temporary fire-protection facilities of the types needed to protect against reasonably predictable and controllable fire losses. Comply with NFPA 10, "Standard for Portable Fire Extinguishers," and NFPA 241, "Standard for Safeguarding Construction, Alterations, and Demolition Operations."
 - 1. Locate fire extinguishers where convenient and effective for their intended purpose, but not less than one extinguisher on each floor at or near each usable stairwell.
 - 2. Maintain unobstructed access to fire extinguishers, fire hydrants, temporary fire-protection facilities, stairways and other access routes for fighting fires. Prohibit smoking in hazardous fire-exposure areas.
 - 3. Provide supervision of welding operations, combustion-type temporary heating units and similar sources of fire ignition.
- N. Permanent Fire Protection: At the earliest feasible date in each area of the Project, complete installation of the permanent fire-protection facility, including connected services, and place into operation and use. Instruct key personnel on use of facilities.
- O. Storage of Flammable and Combustible Materials and Liquids: Comply with NFPA 241, "Standard for Safeguarding Construction, Alterations, and Demolition Operations" and NFPA 30, "Flammable and Combustible Liquid Code"
 - 1. Storage: Store flammable and combustible materials and liquids in weathertight, ventilated and secure facilities outside of the building. Provide temporary fire protection facilities of the types needed to protect against reasonably predictable and controllable fire and losses.
- P. Barricades, Warning Signs, and Lights: Comply with standards and code requirements for erecting structurally adequate barricades. Paint with appropriate colors, graphics and warning signs to inform personnel and the public of the hazard being protected against. Where appropriate and needed, provide lighting, including flashing red or amber lights.
- Q. Security Enclosure and Lockup: Install substantial temporary enclosure of partially completed areas of construction. Provide locking entrances to prevent unauthorized entrance, vandalism, theft and similar violations of security.
 - 1. Storage: Where materials and equipment must be stored, and are of value or attractive for theft, provide secure lockup. Enforce discipline in connection with the installation and release of material to minimize the opportunity for theft and vandalism.
- R. Environmental Protection: Provide protection, operate temporary facilities and conduct construction in ways and by methods that comply with environmental regulations, and minimize the possibility that air, waterways, and subsoil might be contaminated or polluted or

that other undesirable effects might result. Avoid using tools and equipment that produce harmful noise. Restrict use of noise-making tools and equipment to hours that will minimize complaints from persons, homes or businesses near the site.

3.5 OPERATION, TERMINATION, AND REMOVAL

- A. Supervision: Enforce strict discipline in the use of temporary facilities. Limit availability of temporary facilities to essential and intended uses to minimize waste and abuse.
- B. Maintenance: Maintain facilities in good operating condition until removal. Protect from damage by freezing temperatures and similar elements.
 - 1. Maintain operation of temporary enclosures, heating, cooling, humidity control, ventilation and similar facilities on a 24-hour basis where required to achieve indicated results and to avoid possibility of damage.
 - 2. Protection: Prevent water-filled piping from freezing. Maintain markers for underground lines. Protect from damage during excavation operations.
- C. Termination and Removal: Unless the Owner requests that it be maintained longer, remove each temporary facility when the need has ended, when replaced by authorized use of a permanent facility, or no later than Substantial Completion. Complete or, if necessary, restore permanent construction that may have been delayed because of interference with the temporary facility. Repair damaged Work, clean exposed surfaces and replace construction that cannot be satisfactorily repaired.
 - 1. Materials and facilities that constitute temporary facilities are the property of the Contractor. The Owner reserves the right to take possession of project identification signs.
 - 2. Remove temporary paving not intended for or acceptable for integration into permanent paving. Where the area is intended for landscape development, remove soil and aggregate fill that do not comply with requirements for fill or subsoil in the area. Remove materials contaminated with road oil, asphalt and other petrochemical compounds, and other substances that might impair growth of plant materials or lawns. Repair or replace street paving, curbs, and sidewalks at the temporary entrances, as required by the governing authority.
 - 3. At Substantial Completion, clean and renovate permanent facilities used during the construction period including, but not limited to, the following:
 - a. Replace air filters and clean inside of ductwork and housings.
 - b. Replace significantly worn parts and parts subject to unusual operating conditions.
 - c. Replace lamps burned out or noticeably dimmed by hours of use.

END OF SECTION 015000

SECTION 017200 - PROJECT RECORD DOCUMENTS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for Project Record Documents.
- B. Project Record Documents required include the following:
 - 1. Copies of Record Drawings
 - 2. Record Samples
- C. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Submittals" specifies general requirements for preparing and submitting Project Record Documents
 - 2. Division 1 Section "Operation and Maintenance Data" specifies requirements regarding submittal of operation and maintenance manuals.
 - 3. Division 1 Section "Contract Closeout" specifies general closeout requirements.
 - 4. Divisions 2 through 33 Sections for specific Project Record Document requirements.
- D. Maintenance of Documents and Samples: Store record documents and Samples in the field office apart from the Contract Documents used for construction. Do not use Project Record Documents for construction purposes. Maintain record documents in good order and in a clean, dry, legible condition. Make documents and samples available at all times for the Architect's inspections.

1.3 RECORD DRAWINGS

- A. Markup Procedures: During construction, maintain a set of black-line white prints of Contract Drawings and Shop Drawings for Project Record Document purposes. Do not use record documents for construction purposes. Protect record documents from deterioration and loss in a secure, fire-resistant location. Provide access to record documents for the Architect's reference during normal working hours.
 - 1. Mark these Drawings to show the actual installation where the installation varies from the installation shown originally. Give particular attention to information on concealed

elements that would be difficult to identify or measure and record later. Items required to be marked include, but are not limited to, the following:

- a. Dimensional changes to the Drawings
 - b. Revisions to details shown on the Drawings
 - c. Depths of foundations below the first floor
 - d. Locations and depths of underground utilities
 - e. Revisions to routing of piping and conduits
 - f. Revisions to electrical circuitry
 - g. Actual equipment locations
 - h. Duct size and routing
 - i. Locations of concealed internal utilities
 - j. Changes made by Change Order or Construction Change Directive
 - k. Changes made following the Architect's written orders
 - l. Details not on the original Contract Drawings
2. Mark record prints of Contract Drawings or Shop Drawings, whichever is most capable of showing actual physical conditions, completely and accurately. Where Shop Drawings are marked, show cross-reference on Contract Drawings location.
 3. Mark record sets with red erasable colored pencil. Use other colors to distinguish between changes for different categories of the Work at the same location.
 4. Mark important additional information that was either shown schematically or omitted from original Drawings.
 5. Note Construction Change Directive numbers, alternate numbers, change-order numbers, and similar identification.
- B. Responsibility for Markup: The Contractor shall prepare the record drawings.
1. Accurately record information in an understandable drawing technique.
 2. Record data as soon as possible after obtaining it. Record and check the markup prior to enclosing concealed installations.
 3. At the time of Substantial Completion, submit record drawings to the Architect for the Owner's records. Organize the drawings into sets and bind and label the sets for the Owner's continued use.
- C. Copies and Distribution: Print 3 black-line prints of each drawing, whether or not changes and additional information were recorded. Organize the copies into manageable sets. Bind each set with durable-paper cover sheets. Include appropriate identification, including titles, dates, and other information on the cover sheets.
1. Organize and bind the original marked-up set of prints that were maintained during the construction period in the same manner.
 2. Organize print sets. Place these sets in durable tube-type drawing containers with end caps. Mark the end cap of each container with suitable identification.
 3. Submit the marked-up record set and three (3) copy sets to the Architect for the Owner's records; the Architect will retain one (1) copy set.

1.4 RECORD SAMPLE SUBMITTAL

- A. Immediately prior to the date of Substantial Completion, meet with the Owner at the Project site to determine which of the samples maintained during the construction period shall be transmitted to the Owner for record purposes. Comply with the Architect's instructions for packaging, identification marking, and delivery to the Owner's sample storage space. Dispose of other Samples in a manner specified for disposing surplus and waste materials.

1.5 MISCELLANEOUS RECORD SUBMITTALS

- A. Refer to Individual Specification Sections in Divisions 2 through 33 for additional record-keeping requirements and submittals in connection with various construction activities. Immediately prior to Substantial Completion, complete miscellaneous records and place in good order, properly identified and bound or filed, ready for use and reference. Submit to the Architect for the Owner's records.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION

3.1 RECORDING

- A. Post changes and modifications to the Documents as they occur. Do not wait until the end of the Project.

END OF SECTION 017200

SECTION 017700 - CONTRACT CLOSEOUT

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for Contract closeout including, but not limited to, the following:
 - 1. Inspection procedures
- B. Closeout requirements for specific construction activities are included in the appropriate Sections in Divisions 2 through 33.
- C. Related Sections: The following Sections contain requirements that relate to this Section.
 - 1. Division 1 Section "Applications for Payment for information regarding the application which first follows Substantial Completion and for information regarding the Final Application for Payment
 - 2. Division 1 Section "Final Cleaning" for additional information regarding project closeout, cleaning and punch list requirements.
- D. In the event that Additional Services by the Architect are made necessary by the actions of the Contractor, such as failure to meet Substantial Completion or Final Acceptance of the Work within the time frames required by the Contract Documents, the Contractor's responsibility for costs of the Architect as defined throughout this Section shall be calculated to the hourly rates noted in the Architect's Agreement with the Owner. Costs shall be deducted from the Contractor's final payment without Change Order.

1.3 CONTRACTOR'S PUNCH LIST AND TIME FOR COMPLETION

- A. General: The Contractor's Punch List is a comprehensive list of observed items requiring completion or correction, prepared by the Contractor for their Work.
- B. Using the Punch List Form attached to the end of this Section, or in an electronic format acceptable to the Architect, (i.e. Bluebeam, PlanGrid, etc.), list the location, the date, a description of the item and the Contractor responsible for the item. Upon request by the Contractor, this Punch List Form can be provided in MS Excel format.

- C. Except for items whose completion is delayed under circumstances as determined acceptable solely by the Architect, it is a requirement of the Project that ALL Punch List items, from both the Contractor's and the Architect's Punch Lists, be completed or corrected by the Contractor within 30 days of the date established by the Architect for Substantial Completion.
 - 1. Except as noted above, if the Project is not finally accepted by the Architect within 30 days of the date established for Substantial Completion, or if additional and repeated site visits or meetings are required to assure Final Acceptance, all costs incurred by the Architect, both direct and indirect, shall be chargeable to the Contractor. Refer to Paragraph 1.2.D above.

1.4 SUBSTANTIAL COMPLETION

- A. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete and clean in accordance with the requirements of the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.
- B. Preliminary Procedures: Before requesting inspection for a Certificate of Substantial Completion, complete all of the following tasks. List ALL exceptions in the request.
 - 1. In the Application for Payment that first follows the date Substantial Completion is claimed, show 100% completion for the portions of the Work claimed as substantially complete.
 - a. Include supporting documentation for completion as indicated in the Contract Documents and a statement showing an accounting of changes to the Contract Sum.
 - b. If 100% completion cannot be shown, include a Punch List of incomplete items, the value of the incomplete construction and reasons the Work is not complete.
 - 2. Advise the Owner of pending insurance changeover requirements.
 - 3. Submit specific warranties, workmanship bonds, maintenance agreements, final certifications, and similar documents.
 - 4. Obtain and submit releases enabling the Owner unrestricted use of the Work and access to services and utilities. Include occupancy permits, operating certificates, and similar releases.
 - 5. Submit record drawings, maintenance manuals, damage or settlement surveys, property surveys and similar final record information.
 - 6. Deliver tools, spare parts, extra stock, and similar items.
 - 7. Make final changeover of permanent locks and transmit keys to the Owner. Advise the Owner's personnel of changeover in security provisions.
 - 8. Complete startup testing of systems and instruction of the Owner's operation and maintenance personnel. Discontinue and remove temporary facilities from the site, along with mockups, construction tools, and similar elements.
 - 9. Complete final cleanup requirements, including touchup painting.
 - 10. Touch up and otherwise repair and restore marred, exposed finishes.

- C. Contractor Punch List Requirements: When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, and before the Architect will inspect the Work or issue a Certificate of Substantial Completion, the Contractor shall submit a Punch List for review of observed items requiring completion or correction prior to final payment. Failure to include an item does not alter the responsibility of the Contractor to complete all Work in accordance with the requirements of the Contract Documents.
1. If the Project is not defined as phased construction in the Contract Documents and the Contractor requests that a portion of the Project be inspected by the Architect to be deemed substantially complete, the Architect's costs, both direct and indirect, related to said inspection by the Architect shall be the responsibility of the Contractor. Refer to Paragraph 1.2.D above.
- D. Inspection Procedures: Upon request by the Contractor for inspection and receipt of the Contractor's Punch List, the Architect will either proceed with the inspection to determine whether the Work or designated portion thereof is substantially complete or advise the Contractor of unfulfilled requirements. If the Architect's inspection discloses any item, whether or not included on the Contractor's Punch List, which is not sufficiently complete in accordance with the requirements of the Contract Documents to allow the Owner to occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion by the Architect, complete or correct such item upon notification by the Architect.
1. The Architect will prepare the Certificate of Substantial Completion following successful inspection, or advise the Contractor of construction that must be completed or corrected before the certificate will be issued.
 2. If reinspection is necessary to assure Substantial Completion, all costs incurred by the Architect, both direct and indirect, shall be chargeable to the Contractor. Refer to Paragraph 1.2.D above. Following successful reinspection, the Architect will prepare a Certificate of Substantial Completion. If the Work is still not substantially complete, the Architect will advise the Contractor of its obligations that have not been fulfilled and which are still required for Substantial Completion.
 - a. If necessary, the reinspection will be repeated. If this additional reinspection is required, all costs incurred by the Architect, both direct and indirect, shall be chargeable to the Contractor. Refer to Paragraph 1.2.D above.
 - b. Results of the completed inspection will form the basis of requirements for Final Acceptance.

1.5 FINAL ACCEPTANCE

- A. Preliminary Procedures: Before requesting final inspection and final payment, complete all of the following tasks. List ALL exceptions in the request.

1. Submit the final payment request with releases and supporting documentation not previously submitted and accepted. Include insurance certificates for products and completed operations where required.
 2. Submit an updated final statement, accounting for final additional changes to the Contract Sum.
 3. Submit a copy of the Contractor's Punch List of items to be completed or corrected, prepared at the time of Substantial Completion, endorsed, and dated by the Contractor. This copy of the Contractor's Punch List shall state that each item has been completed or otherwise resolved for acceptance.
 4. Submit consent of surety to final payment.
 5. Submit evidence of final, continuing insurance coverage complying with insurance requirements.
- B. Final Inspection Procedures: Upon receipt of the endorsed copy of the Contractor's Punch List and a request for final inspection, the Architect will either proceed with the inspection or advise the Contractor of unfulfilled requirements.
1. The Architect will either endorse and date the completed Contractor's Punch List following final inspection, or advise the Contractor of construction that must be completed or corrected before Final Acceptance.
 2. If reinspection is necessary to assure Final Acceptance, all costs incurred by the Architect, both direct and indirect, shall be chargeable to the Contractor. Refer to Paragraph 1.2.D above. If the Work is still not finally complete, the Architect will advise the Contractor of its obligations that have not been fulfilled and which are still required for Final Acceptance.
 - a. If necessary, the reinspection will be repeated. If this additional reinspection is required, all costs incurred by the Architect, both direct and indirect, shall be chargeable to the Contractor. Refer to Paragraph 1.2.D above.

PART 2 - PRODUCTS (Not Applicable)

PART 3 – EXECUTION

3.1 CLOSEOUT PROCEDURES

- A. Operation and Maintenance Instructions: Arrange for the Installer of each piece of equipment that requires regular maintenance to meet with the Owner's personnel to provide instruction in the proper operation and maintenance of the installed equipment. Provide instruction by manufacturer's representatives if installers are not experienced in the operation and maintenance procedures. Include a detailed review of the following items:
1. Maintenance manuals
 2. Record documents
 3. Spare parts and materials
 4. Tools

5. Lubricants
6. Fuels
7. Identification systems
8. Control sequences
9. Hazards
10. Cleaning
11. Warranties and bonds
12. Maintenance agreements and similar continuing commitments

B. As part of the instruction for operating equipment, demonstrate the following procedures:

1. Startup
2. Shutdown
3. Emergency operations
4. Noise and vibration adjustments
5. Safety procedures
6. Economy and efficiency adjustments
7. Effective energy utilization

3.2 CONTRACT REQUIREMENT AND CLOSEOUT CHECK LIST

A. Information: The attached Contract and Closeout Check List is a summary of the items required for Substantial Completion.

END OF SECTION 017700

SECTION 017800 - FINAL CLEANING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for final cleaning at Substantial Completion.
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Temporary Facilities & Controls" specifies general cleanup and waste removal requirements.
 - 2. Division 1 Section "Contract Closeout" specifies general contract closeout requirements.
 - 3. Special cleaning requirements for specific construction elements are included in appropriate Sections of Divisions 2 through 33.
- C. Environmental Requirements: Conduct cleaning and waste-disposal operations in compliance with local laws and ordinances. Comply fully with federal and local environmental and anti-pollution regulations.
 - 1. Do not dispose of volatile wastes such as mineral spirits, oil or paint thinners, in storm or sanitary drains.
 - 2. Burning or burying of debris, rubbish or other waste material on the premises is not permitted.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by the manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

PART 3 - EXECUTION

3.1 FINAL CLEANING

- A. General: Provide final-cleaning services. Employ experienced workers or professional cleaners for final cleaning. Clean each surface or unit of Work to the condition expected from a commercial building cleaning and maintenance program. Comply with manufacturer's instructions.

- B. Complete the following cleaning operations **before** requesting inspection for Substantial Completion for the Project or a portion of the Project.
 - 1. Clean the Project Site, yard and grounds, in areas disturbed by construction activities, including landscape development areas, of rubbish, waste material, litter, and foreign substances.
 - 2. Sweep paved areas broom clean. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
 - 3. Remove petrochemical spills, stains, and other foreign deposits.
 - 4. Remove tools, construction equipment, machinery, and surplus material from the site.
 - 5. Remove snow and ice to provide safe access to the building.
 - 6. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
 - 7. Remove debris and surface dust from limited access spaces including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics and similar spaces.
 - 8. Broom clean concrete floors in unoccupied spaces.
 - 9. Vacuum clean carpet and similar soft surfaces removing debris and excess nap. Shampoo, if required.
 - 10. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other substances that are noticeable vision-obscuring materials. Replace chipped or broken glass and other damaged transparent materials. Polish mirrors and glass, taking care not to scratch surfaces.
 - 11. Remove all non-permanent labels.
 - 12. Touch up and otherwise repair and restore marred, exposed finishes and surfaces. Replace finishes and surfaces that cannot be satisfactorily repaired or restored or that already show evidence of repair or restoration.
 - a. Do not paint over "UL" and similar labels including mechanical and electrical nameplates.
 - 13. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
 - 14. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
 - 15. Replace disposable air filters and clean permanent air filters. Clean exposed surfaces of diffusers, registers and grills.
 - 16. Clean ducts, blowers and coils if units were operated without filters during construction.

17. Clean food-service equipment to a sanitary condition, ready and acceptable for its intended use.
 18. Clean light fixtures, lamps, globes, and reflectors to function with full efficiency. Replace burned-out bulbs and defective and noisy starters in fluorescent and mercury vapor fixtures.
 19. Leave the Project clean and ready for occupancy.
- C. Pest Control: Engage an experienced, licensed exterminator to make a final inspection and rid the Project of rodents, insects and other pests. Comply with regulations of local authorities.
- D. Removal of Protection: Remove temporary protection and facilities installed during construction to protect previously completed installations during the remainder of the construction period.
- E. Compliances: Comply with governing regulations and safety standards for cleaning operations. Remove waste materials from the site and dispose of lawfully.
1. Where extra materials of value remain after completion of associated Work, they become the Owner's property. Dispose of these materials as directed by the Owner.

END OF SECTION 017800

SECTION 017823 - OPERATION AND MAINTENANCE DATA

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for operation and maintenance manuals, including the following:
 - 1. Preparing and submitting operation and maintenance manuals for building operating systems and equipment.
 - 2. Preparing and submitting instruction manuals covering the care, preservation, and maintenance of architectural products and finishes.
 - 3. Instruction of the Owner's operating personnel in the operation and maintenance of building systems and equipment.
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Submittals" specifies preparation of Shop Drawings and Product Data.
 - 2. Division 1 Section "Contract Closeout" specifies general closeout requirements.
 - 3. Appropriate Sections of Divisions 2 through 33 specify special operation and maintenance data requirements for specific pieces of equipment or building operating systems.

1.3 QUALITY ASSURANCE

- A. Maintenance Manual Preparation: In preparation of maintenance manuals, use personnel thoroughly trained and experienced in operation and maintenance of the equipment or system involved.
 - 1. Where maintenance manuals require written instructions, use personnel skilled in technical writing where necessary for communication of essential data.
 - 2. Where maintenance manuals require drawings or diagrams, use draftsmen capable of preparing drawings clearly in an understandable format.
- B. Instructions for the Owner's Personnel: Use experienced instructors thoroughly trained and experienced in operation and maintenance of equipment or system involved to instruct the Owner's operation and maintenance personnel.

1.4 SUBMITTALS

- A. Submittal Schedule: Comply with the following schedule for submitting operation and maintenance manuals:
1. **Before Substantial Completion**, when each installation that requires operation and maintenance manuals is nominally complete, submit two (2) draft copies of each manual to the Architect for review. Include a complete index or table of contents of each manual.
 - a. The Architect will return one (1) copy of the draft with comments within 15 days of receipt.
 2. Submit one (1) copy of data in final form **at least 15 days before final inspection**. The Architect will return this copy within 15 days after final inspection, with comments.
 3. After final inspection, make corrections or modifications to comply with the Architect's comments. Submit the specified number of copies of each approved manual to the Architect **within 15 days of receipt of the Architect's comments**.
- B. Form of Submittal: Prepare operation and maintenance manuals in the form of an instructional manual for use by the Owner's operating personnel. Organize into suitable sets of manageable size. Where possible, assemble instructions for similar equipment into a single binder.
1. Binders: For each manual, provide heavy-duty, commercial-quality, 3-ring, vinyl-covered, loose-leaf binders, in thickness necessary to accommodate contents, sized to receive 8-1/2-by-11- inch paper. Provide a clear plastic sleeve on the spine to hold labels describing contents. Provide pockets in the covers to receive folded sheets.
 - a. Where two (2) or more binders are necessary to accommodate data, correlate data in each binder into related groupings according to the Project Manual table of contents. Cross-reference other binders where necessary to provide essential information for proper operation or maintenance of the piece of equipment or system.
 - b. Identify each binder on the front and the spine with the printed title "OPERATION AND MAINTENANCE MANUAL," Project title or name, and the subject matter covered. Indicate volume number for multiple volume sets of manuals.
 2. Dividers: Provide heavy paper dividers with celluloid-covered tabs for each separate Section. Mark each tab to indicate contents. Provide a typed description of the product and major parts of equipment included in the Section on each divider.
 3. Protective Plastic Jackets: Provide protective, transparent, plastic jackets designed to enclose diagnostic software for computerized electronic equipment.
 4. Text Material: Where maintenance manuals require written material, use the manufacturer's standard printed material. If manufacturer's standard printed material is not available, provide specially prepared data, neatly typewritten, on 8-1/2-by-11-inch white bond paper.
 5. Drawings: Where maintenance manuals require drawings or diagrams, provide reinforced, punched binder tabs on drawings and bind in with text.

- a. Where oversized drawings are necessary, fold drawings to the same size as text pages and use as a foldout.
- b. If drawings are too large to be used practically as a foldout, place the drawings, neatly folded, in front or rear pocket of binder. Insert a typewritten page indicating drawing title, description of contents and drawing location at the appropriate location in the manual.

1.5 MANUAL CONTENT

- A. In each manual, include information specified in the individual Specification Section and the following information for each major component of building equipment and its controls:
 1. General system or equipment description
 2. Design factors and assumptions
 3. Copies of applicable Shop Drawings and Product Data
 4. System or equipment identification, including:
 - a. Name of manufacturer
 - b. Model number
 - c. Serial number of each component
 5. Operating instructions
 6. Emergency instructions
 7. Wiring diagrams
 8. Inspection and test procedures
 9. Maintenance procedures and schedules
 10. Precautions against improper use and maintenance
 11. Copies of warranties
 12. Repair instructions including spare parts listing
 13. Sources of required maintenance materials and related services
 14. Manual index
- B. Organize each manual into separate Sections for each piece of related equipment. As a minimum, each manual shall contain a title page; a table of contents; copies of Product Data, supplemented by Drawings and written text and copies of each warranty, bond and service contract issued.
 1. Title Page: Provide a title page in a transparent, plastic envelope as the first sheet of each manual. Provide the following information:
 - a. Subject matter covered by the manual
 - b. Name and address of the Project
 - c. Date of submittal
 - d. Name, address, and telephone number of the Contractor
 - e. Name and address of the Architect
 - f. Cross-reference to related systems in other operation and maintenance manuals

2. Table of Contents: After the title page, include a typewritten table of contents for each volume, arranged systematically according to the Project Manual format. Include a list of each product included, identified by product name or other appropriate identifying symbol and indexed to the content of the volume.
 - a. Where a system requires more than one volume to accommodate data, provide a comprehensive table of contents for all volumes in each volume of the set.
3. General Information: Provide a General Information section immediately following the table of contents listing each product included in the manual, identified by product name. Under each product, list the name, address, and telephone number of the subcontractor or installer and the maintenance contractor. Clearly delineate the extent of responsibility of each of these entities. Include a local source for replacement parts and equipment.
4. Product Data: Where the manuals include manufacturer's standard printed data, include only sheets that are pertinent to the part or product installed. Mark each sheet to identify each part or product included in the installation. Where the Project includes more than one item in a tabular format, identify each item, using appropriate references from the Contract Documents. Identify data that is applicable to the installation, and delete references to information that is not applicable.
5. Written Text: Prepare written text to provide necessary information where manufacturer's standard printed data is not available, and the information is necessary for proper operation and maintenance of equipment or systems. Prepare written text where it is necessary to provide additional information or to supplement data included in the manual. Organize text in a consistent format under separate headings for different procedures. Where necessary, provide a logical sequence of instruction for each operation or maintenance procedure.
6. Drawings: Provide specially prepared drawings where necessary to supplement manufacturer's printed data to illustrate the relationship of component parts of equipment or systems or to provide control or flow diagrams. Coordinate these drawings with information contained in project record drawings to assure correct illustration of the completed installation.
 - a. Do not use original project record documents as part of operation and maintenance manuals.
7. Warranties, Bonds, and Service Contracts: Provide a copy of each warranty, bond, or service contract in the appropriate manual for the information of the Owner's operating personnel. Provide written data outlining procedures to follow in the event of product failure. List circumstances and conditions that would affect validity of the warranty or bond.

1.6 MATERIAL AND FINISHES MAINTENANCE MANUAL

- A. Submit three (3) copies of each manual, in final form, on materials and finishes to the Architect for distribution. Provide one section for architectural products, including applied materials and finishes. Provide a second section for products designed for moisture protection and products exposed to the weather.

1. Refer to individual Specification Sections for additional requirements on the care and maintenance of materials and finishes.
- B. Architectural Products: Provide manufacturer's data and instructions on the care and maintenance of architectural products, including applied materials and finishes.
1. Manufacturer's Data: Provide complete information on architectural products, including the following, as applicable:
 - a. Manufacturer's catalog number
 - b. Size
 - c. Material composition
 - d. Color
 - e. Texture
 - f. Reordering information for specially manufactured products
 2. Care and Maintenance Instructions: Provide information on the care and maintenance, including manufacturer's recommendations for types of cleaning agents to be used and methods of cleaning. Provide information on cleaning agents and methods that could prove detrimental to the product. Include the manufacturer's recommended schedule for cleaning and maintenance.
- C. Moisture Protection and Products Exposed to Weather: Provide complete manufacturer's data with instructions on inspection, maintenance and repair of products exposed to the weather or designed for moisture-protection purposes.
1. Manufacturer's Data: Provide manufacturer's data giving detailed information, including the following, as applicable:
 - a. Applicable standards
 - b. Chemical composition
 - c. Installation details
 - d. Inspection procedures
 - e. Maintenance information
 - f. Repair procedures
- D. Schedule: Provide complete information in the materials and finishes manual on products specified in the following Sections:
1. Face Brick and Masonry: Division 4 Section "Unit Masonry Assemblies"
 2. EPDM Sheet Roofing: Division 7 Section "Single-Ply Membrane Roofing"
 3. Metal Wall Panels: Division 7 Section "Metal Wall Panels"
 4. Finish Hardware: Division 8 Section "Door Hardware"
 5. Ceramic Tile: Division 9 Section "Tiling"

1.7 EQUIPMENT AND SYSTEMS MAINTENANCE MANUAL

- A. Submit six (6) copies of each manual, in final form, on equipment and systems to the Architect for distribution. Provide separate manuals for each unit of equipment, each operating system and each electric and electronic system.
 - 1. Refer to individual Specification Sections for additional requirements on the operation and maintenance of the various pieces of equipment and operating systems.

- B. Equipment and Systems: Provide the following information for each piece of equipment, each building operating system and each electric or electronic system.
 - 1. Description: Provide a complete description of each unit and related component parts, including the following:
 - a. Equipment or system function
 - b. Operating characteristics
 - c. Limiting conditions
 - d. Performance curves
 - e. Engineering data and tests
 - f. Complete nomenclature and number of replacement parts

 - 2. Manufacturer's Information: For each manufacturer of a component part or piece of equipment, provide the following:
 - a. Printed operation and maintenance instructions
 - b. Assembly drawings and diagrams required for maintenance
 - c. List of items recommended to be stocked as spare parts

 - 3. Maintenance Procedures: Provide information detailing essential maintenance procedures, including the following:
 - a. Routine operations
 - b. Troubleshooting guide
 - c. Disassembly, repair, and reassembly
 - d. Alignment, adjusting, and checking

 - 4. Operating Procedures: Provide information on equipment and system operating procedures, including the following:
 - a. Startup procedures
 - b. Equipment or system break-in
 - c. Routine and normal operating instructions
 - d. Regulation and control procedures
 - e. Instructions on stopping
 - f. Shutdown and emergency instructions
 - g. Summer and winter operating instructions
 - h. Required sequences for electric or electronic systems
 - i. Special operating instructions

5. Servicing Schedule: Provide a schedule of routine servicing and lubrication requirements, including a list of required lubricants for equipment with moving parts.
6. Controls: Provide a description of the sequence of operation and as-installed control diagrams by the control manufacturer for systems requiring controls.
7. Coordination Drawings: Provide each Contractor's Coordination Drawings.
 - a. Provide as-installed, color-coded, piping diagrams, where required for identification.
8. Valve Tags: Provide charts of valve-tag numbers, with the location and function of each valve.
9. Circuit Directories: For electric and electronic systems, provide complete circuit directories of panelboards, including the following:
 - a. Electric service
 - b. Controls
 - c. Communication

1.8 INSTRUCTIONS FOR THE OWNER'S PERSONNEL

- A. **Prior to final inspection**, instruct the Owner's personnel in the operation, adjustment, and maintenance of products, equipment and systems. Provide instruction at mutually agreed upon times.
 1. For equipment that requires seasonal operation, provide similar instruction during other seasons.
 2. Use the operation and maintenance manuals for each piece of equipment or system as the basis of instruction. Review contents in detail to explain all aspects of operation and maintenance.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 017823

SECTION 017900 - WARRANTIES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for warranties required by the Contract Documents, including manufacturer's standard warranties on products and special warranties.
 - 1. Refer to the General Conditions of the Contract for Construction for terms of the Contractor's period for correction of the Work.
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Submittals" specifies procedures for submitting warranties.
 - 2. Division 1 Section "Contract Closeout" specifies contract closeout procedures.
 - 3. Divisions 23 for specific requirements for warranties and special warranties on products and installations specified to be warranted.
 - 4. Certifications and other commitments and agreements for continuing services to the Owner are specified elsewhere in the Contract Documents.
- C. Disclaimers and Limitations: Manufacturer's disclaimers and limitations on product warranties do not relieve the Contractor of the warranty on the Work that incorporates the products. Manufacturer's disclaimers and limitations on product warranties do not relieve suppliers, manufacturers and subcontractors required to countersign special warranties with the Contractor.

1.3 DEFINITIONS

- A. Standard product warranties are preprinted written warranties published by individual manufacturers for particular products and are specifically endorsed by the manufacturer to the Owner.
- B. Special warranties are written warranties required by or incorporated in the Contract Documents, either to extend time limits provided by standard warranties or to provide greater rights for the Owner.

1.4 WARRANTY REQUIREMENTS

- A. Related Damages and Losses: When correcting failed or damaged warranted construction, remove and replace construction that has been damaged as a result of such failure or must be removed and replaced to provide access for correction of warranted construction.
- B. Reinstatement of Warranty: When Work covered by a warranty has failed and been corrected by replacement or rebuilding, reinstate the warranty by written endorsement. The reinstated warranty shall be equal to the original warranty with an equitable adjustment for depreciation.
- C. Replacement Cost: Upon determination that Work covered by a warranty has failed, replace or rebuild the Work to an acceptable condition complying with the requirements of the Contract Documents. The Contractor is responsible for the cost of replacing or rebuilding defective Work regardless of whether the Owner has benefited from use of the Work through a portion of its anticipated useful service life.
- D. Owner's Recourse: Expressed warranties made to the Owner are in addition to implied warranties and shall not limit the duties, obligations, rights, and remedies otherwise available under the law. Expressed warranty periods shall not be interpreted as limitations on the time in which the Owner can enforce such other duties, obligations, rights, or remedies.
 - 1. Rejection of Warranties: The Owner reserves the right to reject warranties and to limit selection to products with warranties not in conflict with the requirements of the Contract Documents.
- E. Where the Contract Documents require a special warranty or similar commitment on the Work or part of the Work, the Owner reserves the right to refuse to accept the Work until the Contractor presents evidence that entities required to countersign such commitments are willing to do so.

1.5 SUBMITTALS

- A. Submit written warranties to the Architect **prior to the date certified for Substantial Completion.** If the Architect's Certificate of Substantial Completion designates a commencement date for warranties other than the date of Substantial Completion of the Work, or a designated portion of the Work, submit written warranties upon request of the Architect.
 - 1. When a designated portion of the Work is completed and occupied or used by the Owner, by separate agreement with the Contractor during the construction period, submit properly executed warranties to the Architect within 15 days of completion of that designated portion of the Work.
- B. When the Contract Documents require the Contractor, or the Contractor and a subcontractor, supplier or manufacturer to execute a special warranty, prepare a written document that contains appropriate terms and identification, ready for execution by the required parties. Submit a draft to the Owner, through the Architect, for approval prior to final execution.

- C. Form of Submittal: At Final Completion compile two (2) copies of each required warranty properly executed by the Contractor, or by the Contractor, subcontractor, supplier or manufacturer. Organize the warranty documents into an orderly sequence based on the table of contents of the Project Manual.

- D. Bind warranties and bonds in heavy-duty, commercial-quality, durable 3-ring, vinyl-covered loose-leaf binders, thickness as necessary to accommodate contents, and sized to receive 8-1/2-by-11-inch paper.
 - 1. Provide heavy paper dividers with celluloid covered tabs for each separate warranty. Mark the tab to identify the product or installation. Provide a typed description of the product or installation, including the name of the product, and the name, address, and telephone number of the installer.
 - 2. Identify each binder on the front and spine with the typed or printed title "WARRANTIES," Project title or name and the name of the Contractor.
 - 3. When warranted construction requires operation and maintenance manuals, provide additional copies of each required warranty, as necessary, for inclusion in each required manual.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 017900