



PROJECT MANUAL

Volume I of IV

City of Staunton **Park Facilities Improvements** Staunton, Virginia

Prepared for
City of Staunton

T&L Project No. 18861
Document Date: February 20, 2026
Issued for Bids: May 1, 2026



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& LITTON** EST.
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PROJECT MANUAL

**City of Staunton
Park Facilities Improvements
Staunton, Virginia**

**Prepared For
City of Staunton**

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THOMPSON & LITTON

**726 Auburn Avenue
Radford, Virginia 24141**

T&L Project No. 18861

**Document Date: February 20, 2026
Issued for Bids: May 1, 2026**

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City of Staunton Park Facilities Improvements
Staunton, Virginia

For
City of Staunton

T&L Project No. 18861

SEALS PAGE



For Architectural & Life Safety
Only



For Civil Engineering Only



For Structural Only



For Mechanical Only



For Electrical Only

**City of Staunton Park Facilities Improvements
T&L Project No. 18861**

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** Asterisks indicate references made to AIA (American Institute of Architects) documents - latest edition, which are hereby made a part of the Contract Documents. All provisions and requirements contained in reference, after being duly executed, shall be considered as part of the Contract Documents, as if bound herein. Copies of the referenced documents are available for review at the office of the Architect. Contractors shall purchase copies from the American Institute of Architects. The original document shall be provided by the Contractor and will be required for the execution of the "Contract".*

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**City of Staunton Park Facilities Improvements
Staunton, Virginia**

**For
City of Staunton**

T&L Project No. 18861

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SECTION 00 0515 - CITY OF STAUNTON / VPPA PROJECT REQUIREMENTS / FEDERAL REQUIREMENTS

The provisions of this Section 000515 are prescribed by state or other law, and become part of the final agreement of the successful Bidder. By bidding on the Project, each Bidder signifies agreement to these provisions.

PART 1 - GENERAL

1.1 ANTI-DISCRIMINATION:

By submitting proposals, Bidders certify to Owner that they will comply with the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, when applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*.

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

1.2 ETHICS IN PUBLIC CONTRACTING:

- A. By submitting proposals, Bidders certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement

transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged Work covered by Contract Documents.

1.3 IMMIGRATION REFORM AND CONTROL ACT OF 1986:

- A. By entering into a written contract with Owner, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services for Owner, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

1.4 DEBARMENT STATUS:

By participating in this procurement, the Bidder certifies that it is not currently debarred by the Commonwealth of Virginia or Owner from submitting a response for the type of goods and/or services covered by this solicitation. Bidder further certifies that they are not debarred from filling any order or accepting any resulting order, or that it is are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia or Owner.

1.5 RECORDS RETENTION:

If successful, the Bidder hereby agrees to retain all books, records, and other documents relative to this contract for three (3) years after final payment, or until audited by the Owner, whichever is sooner. The Owner, its authorized agents, and/or auditors reserve the right to perform or have performed an audit of the records of the Contractor pertaining to this Project and therefore shall have full access to and the right to examine any of said materials within a reasonable period of time during said period.

1.6 ANTITRUST.

By entering into a contract pursuant to this solicitation, the Bidder conveys, sells, assigns, and transfers to the Owner all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Owner under said contract.

1.7 CHARGES AND PAYMENTS TO SUBCONTRACTORS—GENERAL:

- A. Payment to Subcontractors From Funds that Contractor Receives.

1. A Bidder awarded a contract under this solicitation is hereby obligated:

- (a) To pay the subcontractor(s) within seven (7) days of the Bidder's receipt of payment from Owner for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (b) To notify the Owner and the subcontractor(s), in writing, of the Bidder's intention to withhold payment and the reason.
- 2. The Bidder is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Bidder that remain unpaid seven (7) days following receipt of payment from Owner, except for amounts withheld as stated in (A)(1)(b) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. An Bidder's obligation to pay an interest charge to a subcontractor is not an obligation of Owner.

B. Payment to Subcontractors When Contractor Has Not Received Funds

In the event that the Bidder awarded a contract under this solicitation has not received payment from the Owner for work performed by a subcontractor under such contract, such Bidder is liable for the entire amount owed to such subcontractor and to pay such subcontractor within 60 days of the receipt of an invoice following satisfactory completion of the work for which the subcontractor has invoiced. Such Bidder shall not be liable for amounts otherwise reducible due to the subcontractor's noncompliance with the terms of the contract. However, in the event that the Bidder withholds all or a part of the amount invoiced by the subcontractor under the terms of the contract, the contractor shall notify the subcontractor within 50 days of the receipt of such invoice, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment, specifically identifying the contractual noncompliance, the dollar amount being withheld, and the lower-tier subcontractor responsible for the contractual noncompliance. Payment by the party contracting with the contractor shall not be a condition precedent to payment to any lower-tier subcontractor, regardless of that contractor's receiving payment for amounts owed to that contractor. This paragraph shall not apply to any amounts withheld as retainage under the applicable contract.

C. Tax Identification Numbers.

Individual contractors or subcontractors shall provide their social security numbers. Proprietorships, partnerships, and corporations (or other entities taxed as one of the foregoing under federal law) shall provide their federal employer identification numbers.

1.8 QUALIFICATIONS OF BIDDERS

- A. By submitting a proposal, a Bidder authorizes Owner to make such reasonable investigations with the Bidder and with any third party, as deemed proper and necessary in the sole discretion of the Owner to determine the ability of the Bidder to perform the services under this Bid, and the Bidder also authorizes the third party to provide any information requested by Owner, even if the information is adverse to the Bidder. Owner reserves the right to inspect Bidder's physical facilities and previous work and record prior to award to satisfy questions regarding the Bidder's

capabilities. Owner further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Bidder fails to satisfy Owner that such Bidder is fully qualified to carry out the obligations of the contract and to provide the procured services in all respects.

1.9 TAXES:

Sales to Owner are exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request, as Owner determines appropriate.

1.10 DRUG-FREE WORKPLACE

- A. During the performance of a contract, the Bidder agrees to: (1) provide a drug-free workplace for the Bidder's employees; (2) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Bidder's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (3) state in all solicitations or advertisements for employees placed by or on behalf of the Bidder that the Bidder maintains a drug-free workplace; and (4) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- B. For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

1.11 AVAILABILITY OF FUNDS:

It is understood and agreed between the parties herein that Owner shall be bound and liable hereunder only to the extent of the funds appropriated by the governing body of the City of Staunton for the purpose of this Contract

1.12 AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:

A Bidder organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to

the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. Owner may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section. Any LLC Bidder's signatory to any document related to this procurement shall be regarded as a declaration under penalty of perjury that the signatory has full authority to execute the document as a legally binding obligation of the LLC and there are no restrictions or conditions to the LLC's contractual commitment or the execution of all documents related thereto.

1.13 PUBLIC INSPECTION OF PROCUREMENT RECORDS:

- A. Proposals submitted shall be subject to public inspection only in accordance with Section 2.2-4342 of the Code of Virginia as follows:
1. Except as provided in this section, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).
 2. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
 3. Any competitive negotiation Bidder, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the public body decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.
 4. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
 5. Trade secrets or proprietary information submitted in connection with a procurement transaction or prequalification application consistent with and pursuant to subsection B of § 2.2-4317 shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, the Bidder shall (a) invoke the protections of this section prior to or upon submission of the data or other materials, (b) identify the data or other materials to be protected, and (c) state the reasons why protection is necessary, all to the extent required by law.

1.17 COMPANY WORKSITE BADGE

All Contractors working onsite must have a visible company badge at all times. The badge must include the company name, name of employee and a photo of the employee.

1.18 CERTIFICATION OF INTEREST & RELATIONSHIPS WITH CITY OF STAUNTON, STAUNTON CITY COUNCIL, SCHOOL BOARD AND STAUNTON PUBLIC SCHOOL EMPLOYEES.

The extent that neither Offeror nor any of Offeror's officers, directors, or executive employees maintains a financial or familial or any business relationship with any person acting for, or employed by, City of Staunton or Staunton City Council and SCS or Staunton City School Board members of the Board itself, the offeror shall reveal and fully describe such relationships in writing, which shall be made public. In accordance with this paragraph, the offeror shall execute the certification attached hereto as Attachment A and submit the certification contemporaneously with this executed Contract.

1.19 PROOF OF STATE CORPORATION COMMISSION NUMBER

All prime and subcontractors shall certify that it is authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity by providing proof of registration with the VA Corporation Commission.

1.20 Procurement of imported goods; forced and indentured child labor prohibition (VA Code § 2.2-4311.4)

- a. For the purposes of this section, "forced or indentured child labor" means all work or service
 - i. (i) exacted from any person younger than 18 years of age under the menace of any penalty for the nonperformance of such work or service and for which such person does not offer himself voluntarily or
 - ii. (ii) performed by any person younger than 18 years of age pursuant to a contract the enforcement of which can be accomplished by process or penalties.
- b. A public body that enters into a public contract for goods or services that exceeds \$10,000 shall include in such a public contract provisions
 - i. (i) prohibiting the use of forced or indentured child labor in the performance of the contract and
 - ii. (ii) requiring that the contractor include such prohibition in every subcontract or purchase order that exceeds \$10,000, so that the prohibition will be binding upon each subcontractor or vendor.

ATTACHMENT A
CERTIFICATION OF INTEREST & RELATIONSHIPS
WITH CITY OF STAUNTON, STAUNTON CITY COUNCIL,
SCHOOL BOARD AND STAUNTON PUBLIC SCHOOL EMPLOYEES

Contractor hereby certifies that neither Contractor, nor any of Contractor's officers, directors, or executive employees maintain a financial or familial relationship with any person acting for, or employed by, the City of Staunton, Staunton City Council, School Board, or Staunton Public Schools (City Employee).

To the extent that such relationships exist, Contractor shall reveal the relationship below by describing the nature of the relationship and identifying the person with whom such relationship exists.

- ☐ Neither Contractor nor any of its officers, directors, or executive employees maintain a financial or familial relationship with any person acting for, or employed by, the City of Staunton, Staunton City Council, School Board, or Staunton Public Schools.
- ☐ The following individuals currently maintain a **financial** relationship with Contractor.

City Employee's Name: _____

Position with City: _____

Nature of Relationship: _____

- ☐ The following individuals currently maintain a **familial** relationship with Contractor.

City Employee's Name: _____

Position with City: _____

Nature of Relationship: _____

Contractor: _____ Date: _____

By: _____

Name: _____

Title: _____

ADVERTISEMENT FOR BIDS

City of Staunton
116 W. Beverley St., 3rd Floor
Staunton, Virginia 24401

Seeking sealed bids for the City of Staunton Park Facilities Improvements for the City of Staunton, which consists of Gypsy Hill Park Restroom Renovations, Montgomery Hall Park Restrooms & Pool House Improvements, and Gypsy Hill Park Pump House Renovations, will be received by Chad Horvat, Finance Business Manager, at 116 W. Beverley St., 3rd Floor, Staunton, Virginia, 24401, until 2:00 P.M., local prevailing time, on June 2, 2026, and then at said office publicly opened and read aloud.

The Contract Documents may be examined at Thompson & Litton, 726 Auburn Avenue, Radford, VA; the City of Staunton website; and eVA.

A non-mandatory Pre-Bid Conference will be held on May 14, 2026, at 10:00 A.M. All interested parties are requested to meet the Architect at 116 West Beverly Street, 3rd Floor Planning Conference Room, Staunton, VA 24401 at that time, with following visits to Gypsy Hill Park, Gypsy Hill Pump House, and Montgomery Hall Park.

Withdrawal of bids shall be according to procedure (i) of the Virginia Public Procurement Act and to the Code of Virginia (§ 2.2-4330).

Bids must be accompanied by Bid security as specified in the Instructions to Bidders.

Each Bidder must be licensed as a Class A contractor in the State of Virginia; Bidders are instructed to review the *Code of Virginia*, Title 54.1, Chapter 11, prior to bidding.

The Owner does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1.

MBE/WBE firms are encouraged to submit Bids.

The Contract(s) shall be awarded to the lowest responsive and responsible Bidder(s).

The Owner reserves the right to reject any and all Bids if it appears in its best interest to do so.

May 1, 2026
Date

Chad Horvat
City of Staunton
By

INSTRUCTIONS TO BIDDERS

1. Defined Terms

- 1.1 Terms used in these Instructions to Bidders which are defined in the General Conditions of the Contract for Construction (AIA A201-2017) have the meanings assigned to them in the General Conditions. Additional terms used in these Instructions to Bidders have the meaning indicated below:
- A. The term "Bidder" means one who submits a Bid directly to Owner, as distinct from a sub-bidder, who submits a Bid to a Bidder.
 - B. The term "Successful Bidder" means the qualified, responsible, and responsive Bidder to whom Owner (on the basis of Owner's evaluation hereinafter provided) makes an award.
 - C. The term "Bidding Documents" includes the Advertisement or Invitation for Bids, Instructions to Bidders, the Bid Form, sample forms, and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).
 - D. The term "Days" means calendar days.
- 1.2 Terms as used in the *Code of Virginia*, § 2.2-4301.

2. Copies of Bidding Documents

- 2.1 Complete sets of the Bidding Documents are available as stated in the Advertisement or Invitation for Bids.
- 2.2 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Architect assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.3 Owner and Architect, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

3. Qualifications of Bidders

- 3.1 Each Bidder shall submit to the Owner, through the Architect, on the form entitled "Contractor's Qualification Statement" a statement of its qualifications, its experience record in constructing the types of improvements embraced in the Contract, and its organization and equipment available for the Work contemplated. The Owner shall have the right to take such steps as it deems necessary to determine the ability of the Bidder to perform its obligation under the

Contract, and the Bidder shall furnish the Owner all such information and data indicated on the form. The right is reserved to reject any Bid where an investigation of the available evidence or information does not satisfy the Owner that the Bidder is qualified to properly carry out the terms of the Contract.

4. Examination of Contract Documents and Site

- 4.1 Before submitting a Bid, it is each Bidder's responsibility to (a) examine the Contract Documents thoroughly; (b) visit the site to become familiar with local conditions that may in any manner affect cost, progress or performance of the Work; (c) consider Federal, State, and local laws; ordinances; and rules and regulations that may in any manner affect cost, progress or performance of the Work; (d) study and carefully correlate Bidders' observations with the Contract Documents; and (e) notify Architect of all conflicts, errors or discrepancies in the Contract Documents.
- 4.2 The submission of a Bid will constitute an incontrovertible representation by Bidder that it has complied with every requirement of this Article 4; that without exception, the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences, or procedures of construction as may be indicated in or required by the Contract Documents; and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

5. Interpretations and Addenda

- 5.1 All questions about the meaning or intent of the Contract Documents are to be submitted to the Architect on the Pre-Bid Question Form provided herein. Interpretations and/or clarifications considered necessary by Architect in response to such questions will be issued by Addenda and delivered to all parties recorded by Architect as having received the Bidding Documents. Questions received less than ten (10) days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 5.2 Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Architect.

6. Bid Security

- 6.1 Bid Security shall be made payable to Owner in an amount of five percent (5%) of the Bidder's maximum Bid price and in the form of a certified check or a Bid Bond (on form provided or form supplied by Bidder's Surety).
- 6.2 The Bid Security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required Contract Security, whereupon it will be returned. If the successful Bidder fails to execute and deliver the Agreement and furnish the required Contract

Security within fifteen (15) days of the Notice of Award, Owner may annul the Notice of Award and the Bid Security of that Bidder will be forfeited. The Bid Security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the "effective date of the Agreement" or the thirty-first day after the Bid opening, whereupon Bid Security furnished by such Bidders will be returned. Bid Security with Bids which are not competitive will be returned within seven (7) days after the Bid opening.

7. Contract Time(s)

- 7.1 The number of calendar days within which, or the date by which, the Work is to be substantially completed and ready for final payment. Contract Time(s) are set forth in the Bid Form.

8. Substitute or "Or Equal" Items

- 8.1 The Contract, if awarded, will be on the basis of material and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or equal" item of material or equipment may be furnished or used by Contractor if acceptable to Architect, application for such acceptance will not be considered by Architect until after the "effective date of the Agreement".

9. Subcontractors, Etc.

- 9.1 In advance of the Notice of Award, the apparent Successful Bidder will, within ten (10) days after the day of the Bid opening, submit to Owner through Architect a list of all Subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the Work as to which such identification is so required. The Architect may additionally request such list be accompanied by an experience statement with pertinent information as to similar projects and other evidence of qualification for each such Subcontractor, person and organization, if requested by Owner. If Owner or Architect, after due investigation, has reasonable objection to any proposed Subcontractor, other person or organization, either may, before giving the Notice of Award, request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid price. If the apparent Successful Bidder declines to make any such substitution, the contract shall not be awarded to such Bidder. Any Subcontractor, other person or organization so listed and to whom Owner or Architect does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Architect.
- 9.2 No Contractor shall be required to employ any Subcontractor, other person, or organization against whom it has reasonable objection.

9.3 In accordance with *Code of Virginia*, § 2.2-4332, all Subcontractors must provide evidence of Workers' Compensation Insurance prior to award of contract by completing the Workers' Compensation Certificate of Coverage.

9.4 In accordance with *Code of Virginia*, Title 54.1, Chapter 11, all Subcontractors must be registered either as a Class A Contractor with the Virginia Board for Contractors.

10. Bid Form

10.1 The Bid Form is provided herein. One (1) separate unbound copy of the Bid Form to be completed and submitted with the Bid Security and other documents is additionally provided (hard sets only).

10.2 All blanks on the Bid Form must be completed in ink or by typewriter. The Bid price of each item on the form and the Total Bid Price must be stated in both words and numerals; in case of a conflict, words will take precedence.

10.3 Bids by corporations must be executed in the corporate name by the President or a Vice President (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the Secretary or an Assistant Secretary. The corporate address and state of incorporation shall be shown below the signature.

10.4 Bids by Partnership must be executed in the partnership name and signed by a partner whose title must appear under the signature and the official address of the Partnership must be shown below the signature.

10.5 A Bid by a Limited Liability Company shall be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.

10.6 All names must be typed or printed below the signature.

10.7 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which shall be filled in on the Bid Form).

10.8 For the purposes of directing telecommunications regarding the Bid, the postal address, email address, and telephone number must be shown.

11. Submission of Bids

11.1 Prior to submitting a Bid, a nonresident Bidder must appoint the Director of the Virginia Department of Professional and Occupational Regulation as the Bidder's statutory agent for service of process pursuant to *Code of Virginia*, Section 54.1-1113.

11.2 Bids shall be submitted at the time and place indicated in the Advertisement or Invitation for Bids and shall be included in an opaque sealed envelope, marked with the Project title and name and address of the Bidder, Bidder's applicable State Contractor License Number and

Classification/Specialty Code Name, and accompanied by the other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face thereof.

11.3 Bids shall be addressed to the Owner as indicated on the Bid Form. No Bid submitted by fax or email transmission shall be allowed.

11.4 Electronic Submissions via the eVA System

- A. Electronic sealed bids will be accepted **ONLY** through the eVA system. Bids delivered electronically by any method outside of the eVA system WILL NOT be accepted.
- B. Prior to the due date, Bidders should:
 - i. Check the status of the solicitation on eVA at www.eva.virginia.gov by clicking on Business Opportunities and then click on Virginia Business Opportunities (VBO) to check for any updates, changes, amendments, cancellations, etc., and to ensure receipt of all Solicitation attachments and document to be completed and submitted; and;
 - ii. Complete all attachments, amendments, exhibits, product information, etc. and attach electronically to the Bidder's electronic submission.
- C. Electronic bid submission with all required documents attached is required and submission as one singular PDF formatted document is preferred.
- D. Bidders must submit one (1) complete copy of the bid and all required documents and/or attachments.

eVA Specific Submission Instructions:

Bidders must be registered in eVA in order to submit an electronic bid.

The following are instructions for submitting an electronic bid:

- 1) Go to www.eva.virginia.gov;
- 2) Click on "I Sell To Virginia";
- 3) Click on "eVA Supplier Training"; and
- 4) Click on "Viewing and Responding to Solicitations Video".
- 5) If a Bidder needs assistance submitting an electronic response, the Bidder must contact eVA Customer Care at 866-289-7367 or email eVACustomerCare@dgs.virginia.gov.

12. Modification and Withdrawal of Bids

- 12.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and as allowed and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.
- 12.2 If, in accordance with *Code of Virginia*, § 2.2-4330, B.1, within two (2) business days after the Bid date, any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work.
- 12.3 No Bidder who is permitted to withdraw a Bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the Contract is awarded or otherwise benefit, directly or indirectly, from the performance of the Project for which the withdrawn Bid was submitted.
- 12.4 No Bid may be withdrawn due to error when the result would be the awarding of the Contract on another Bid of the same Bidder or of another Bidder in which the ownership of the withdrawing Bidder is more than five percent (5%).
- 12.5 If a Bid is withdrawn due to error, the lowest remaining Bid shall be deemed to be the low Bid.

13. Opening of Bids

- 13.1 Bids will be opened and (unless obviously nonresponsive) read aloud publicly. An abstract of the amounts of the Base Bids and major alternates (if any) will be made available to Bidders after the opening of Bids. If, however, the Owner chooses not to accept any of the Bids and re-advertises the Contract or re-invites Bidders, no abstract will be made, and Bids submitted will not be available for examination.

14. Bids to Remain Open

- 14.1 All Bids shall remain open for sixty (60) days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid prior to that date.

15. Award of Contract

- 15.1 Owner reserves the right to reject any and all Bids; to waive any and all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the successful Bidder, and the right to disregard all nonconforming, nonresponsive, or conditional Bids. Also, Owner reserves the right to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive, Bidder is unqualified, of doubtful financial ability, or fails to meet any other pertinent standard or criteria established by Owner.
- 15.2 In evaluating Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 15.3 Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. Owner may also consider the operating costs, maintenance requirements, performance data, and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 15.4 Owner may conduct such investigations as it deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of the Bidders, proposed Subcontractors, Suppliers, and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.
- 15.5 If the Contract is to be awarded, such award shall be to the responsible Bidder submitting the lowest responsive Bid. Evaluation shall be made on the basis of the Base Bid; Alternates, if any, will be considered by the Owner following Contract award.
- 15.6 If the Contract is to be awarded, Owner will give the Successful Bidder Notice of Award within sixty (60) days after the day of the Bid opening.
- 15.7 Unless cancelled or rejected, the responsive Bid from the successful Bidder shall be accepted as submitted, except that if the Bid from the successful Bidder exceeds available funds, the Owner or designated official may negotiate with the successful Bidder to obtain a contract within available funds. Negotiations will be conducted in accordance with the following procedures:
 - 1. Proposals and Counter Proposals shall be set forth in writing through the Architect.
 - 2. Time limit for negotiations shall be thirty (30) days from the Bid date.

3. The Owner has the right to reject any or all proposals or counter proposals of the Contractor.
- 15.8 In accordance with *Code of Virginia*, § 2.2-4332, all Bidders must provide evidence of Workers Compensation Insurance by submitting a Workers' Compensation Certificate of Coverage with each Bid.
- 16. Contract Security**
 - 16.1 The General Conditions (Articles 11.1.2 and 11.1.3) and the Supplementary Conditions (SC-11) set forth Owner's requirements as to Performance and other Bonds. When the Successful Bidder delivers the executed Agreement to Owner, it shall be accompanied by the required Contract Security.
- 17. Signing of Agreement**
 - 17.1 When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by at least three (3) unsigned counterparts of the Agreement and all other Contract Documents. Within fifteen (15) days thereafter, the Successful Bidder shall sign and deliver at least three (3) counterparts of the Agreement to Owner with all other Contract Documents attached. Within ten (10) days thereafter, Owner will deliver all fully signed counterparts to Architect who will distribute one each of the executed contracts to the Owner, the Contractor, and the Architect.
- 18. Sales and Use Taxes**
 - 18.1 Applicable State Sales and Use Taxes on materials and equipment to be incorporated in the Work shall be included in the Contract price.
- 19. Retainage**
 - 19.1 In accordance with *Code of Virginia*, § 2.2-4333, a sum equal to five percent (5%) of the Contractor's pay requests shall be held as retainage throughout the entire project until final acceptance by the Owner.
- 20. Special Legal Requirements**
 - 20.1 Bidders and Contractors performing Work under this Advertisement are bound by the requirements of the Occupational Safety and Health Administration (OSHA) regulations (29 CFR Part 1910).
 - 20.2 During the performance of this Contract, the Contractor shall not knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986, pursuant to the *Code of Virginia*, § 2.2-4311.1.

PRE-BID QUESTION FORM

(Use separate Form for each question submitted.)

Date: _____

Project Name: City of Staunton Park Facilities Improvements

T&L Project No.: 18861

The following question concerns Drawing Sheet (number) _____:

The following question concerns Specification Section (number) _____, page _____, paragraph _____:

Refer to "Instructions to Bidders", Part 5 - "Interpretations and Addenda".

NOTE: QUESTIONS MAY NOT BE CONSIDERED IF RECEIVED WITHIN TEN (10) CALENDAR DAYS OF THE BID DATE. All responses to questions will be made by Addendum.

Question submitted by: _____

Name

Organization: _____

Telephone: _____

Bidders shall submit form to: Thompson & Litton, Inc.



**THOMPSON
& LITTON**

Email address: prebid@T-L.com

or

FAX No.: (276) 328-1738



BID FORM

PROJECT IDENTIFICATION:

City of Staunton Park Facilities Improvements

CONTRACT IDENTIFICATION NO:

T&L Project No. 18861

THIS BID IS SUBMITTED TO:

**City of Staunton
116 W. Beverley St., 3rd Floor
Staunton, Virginia 24401**

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. Bidder accepts all of the terms and conditions of the Advertisement and Instructions to Bidders, including without limitation those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for sixty (60) days after the day of Bid Opening. Bidder will sign and submit the Agreement with the Bonds and other documents required by the Bidding Requirements within the timeframe presented in the Instructions to Bidders.
3. In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:
 - (A) Bidder has examined copies of all Bidding Documents and of the following Addenda (receipt of all which is hereby acknowledged):

Number	Date

- (B) Bidder has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance, or furnishing of the Work.
 - (C) Bidder has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, and studies which pertain to the subsurface or physical conditions at the site or otherwise may affect the cost, progress, performance, or furnishing of the Work as Bidder considers necessary for the performance or furnishing of the Work at the Contract time and in

accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Paragraph 3.2 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, or similar information or data are or will be required by Bidder for such purposes.

- (D) Bidder has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing utilities at or contiguous to the site and assumes responsibility for the accurate location of said utilities. No additional examinations, investigations, explorations, tests, reports or similar information or data in respect of said utilities are or will be required by Bidder in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Paragraph 3.2 of the General Conditions.
 - (E) Bidder has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents.
 - (F) Bidder has given Architect written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by Architect is acceptable to Bidder.
 - (G) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm, or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.
4. Bidder will complete the Work for the prices as follows, in accordance with drawings and specifications:

BASE BID ITEMS:

Gypsy Hill Park Restroom Renovations – Volume II, Montgomery Hall Park Restrooms & Pool House Improvements – Volume III

Dollars (\$ _____)

ALTERNATE BID ITEMS:

Additive Bid Item No. 1 – Gypsy Hill Park Pumphouse Renovations – Volume IV

Dollars (\$ _____)

NOTE: The Contract, if awarded, will be based on the Total Base Bid plus Alternate. If the project bids come in over total budget or if the City decides not to accept the Alternate the award will be based strictly on Total Base Bid without regard to Alternates.

5. Bidder agrees that the Work will be substantially completed within Total Base Bid plus Alternate: Three hundred sixty (360), or ii. Total Base Bid without Alternate: Two hundred seventy (270) consecutive calendar days after Notice to Proceed, and Final Completion shall be achieved within thirty (30) consecutive calendar days after Substantial Completion.
6. In the event that the project does not reach Substantial Completion within the time specified in Paragraph 5 above, Owner and Contractor recognize that time is of the essence with regard to this Agreement and that the Owner will suffer financial loss and inconvenience if Work is not completed within the designated time. They also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), the Contractor shall pay the Owner five hundred dollars (\$500.00) for each calendar day that expires after the time specified for project completion.
7. The following documents are attached to and made a condition of this Bid:
 - (A) Required Bid Security in the form of _____.
 - (B) Required Contractor's Qualification Statement with supporting data.
 - (C) Certification of Bidder Regarding Debarment.
 - (D) Workers' Compensation Certificate of Coverage.
8. Communications concerning this Bid shall be addressed to the address of Bidder indicated below.

The following address: _____
9. The terms used in this Bid which are defined in the General Conditions of the Construction Contract included as part of the Contract Documents have the meanings assigned to them in the General Conditions.

SUBMITTED on _____, 20____.

(Attach Evidence of Authority to Sign.)

IF BIDDER IS:

An Individual

By _____ (SEAL)
(Individual's Name)

doing business as _____

Business address: _____

Phone No.: _____

Email Address: _____

A Partnership

By _____
(Firm Name)

_____ (SEAL)
(General Partner)

Business address: _____

Phone No.: _____

Email Address: _____

A Corporation

By _____
(Corporation Name)

(State of Incorporation)

By _____ (SEAL)
(Name of Person Authorized to Sign)

(Title)

(Corporate Seal)

Attest _____
(Secretary)

Business address: _____

Phone No.: _____

Email Address: _____

A Joint Venture

By _____

(Name)

(Address)

By _____

(Name)

Email Address: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above).

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned

_____ as Principal, and
_____ as Surety, are hereby held
and firmly bound unto _____ as Owner in
the penal sum of _____ for the
payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our
heirs, executors, administrators, successors and assigns.

Signed, this _____ day of _____

The condition of the above obligation is such that whereas the Principal has submitted to
_____ a certain bid attached
hereto and hereby made a part of hereof to enter into a contract in writing, for the

NOW THEREFORE,

- a) If said Bid shall be rejected, or in the alternate
- b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid.

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The surety for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by an extension of the time within

Bid Bond

which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Principal (L.S.)

Surety

By: _____

Seal

Bid Bond

DRAFT AIA® Document A305™ – 1986

Contractor's Qualification Statement

The Undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

SUBMITTED TO: « »

ADDRESS: « »

SUBMITTED BY: « »

NAME: « »

ADDRESS: « »

PRINCIPAL OFFICE: « »

[« »] Corporation

[« »] Partnership

[« »] Individual

[« »] Joint Venture

[« »] Other « »

NAME OF PROJECT: (if applicable) « »

TYPE OF WORK: (file separate form for each Classification of Work)

[« »] General Construction

[« »] HVAC

[« »] Electrical

[« »] Plumbing

[« »] Other: (Specify) « »

§ 1 ORGANIZATION

§ 1.1 How many years has your organization been in business as a Contractor? « »

§ 1.2 How many years has your organization been in business under its present business name? « »

§ 1.2.1 Under what other or former names has your organization operated?

« »

§ 1.3 If your organization is a corporation, answer the following:

§ 1.3.1 Date of incorporation: « »

§ 1.3.2 State of incorporation: « »

§ 1.3.3 President's name: « »

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.

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

This form is approved and recommended by the American Institute of Architects (AIA) and The Associated General Contractors of America (AGC) for use in evaluating the qualifications of contractors. No endorsement of the submitting party or verification of the information is made by AIA or AGC.



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§ 1.3.4 Vice-president's name(s)

« »

§ 1.3.5 Secretary's name: « »

§ 1.3.6 Treasurer's name: « »

§ 1.4 If your organization is a partnership, answer the following:

§ 1.4.1 Date of organization: « »

§ 1.4.2 Type of partnership (if applicable): « »

§ 1.4.3 Name(s) of general partner(s)

« »

§ 1.5 If your organization is individually owned, answer the following:

§ 1.5.1 Date of organization: « »

§ 1.5.2 Name of owner:

« »

§ 1.6 If the form of your organization is other than those listed above, describe it and name the principals:

« »

§ 2 LICENSING

§ 2.1 List jurisdictions and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable.

« »

§ 2.2 List jurisdictions in which your organization's partnership or trade name is filed.

« »

§ 3 EXPERIENCE

§ 3.1 List the categories of work that your organization normally performs with its own forces.

« »

§ 3.2 Claims and Suits. (If the answer to any of the questions below is yes, please attach details.)

§ 3.2.1 Has your organization ever failed to complete any work awarded to it?

« »

§ 3.2.2 Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your organization or its officers?

« »

§ 3.2.3 Has your organization filed any law suits or requested arbitration with regard to construction contracts within the last five years?

« »

§ 3.3 Within the last five years, has any officer or principal of your organization ever been an officer or principal of another organization when it failed to complete a construction contract? (If the answer is yes, please attach details.)

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<< >>

§ 3.4 On a separate sheet, list major construction projects your organization has in progress, giving the name of project, owner, architect, contract amount, percent complete and scheduled completion date.

<< >>

§ 3.4.1 State total worth of work in progress and under contract:

<< >>

§ 3.5 On a separate sheet, list the major projects your organization has completed in the past five years, giving the name of project, owner, architect, contract amount, date of completion and percentage of the cost of the work performed with your own forces.

<< >>

§ 3.5.1 State average annual amount of construction work performed during the past five years:

<< >>

§ 3.6 On a separate sheet, list the construction experience and present commitments of the key individuals of your organization.

<< >>

§ 4 REFERENCES

§ 4.1 Trade References:

<< >>

§ 4.2 Bank References:

<< >>

§ 4.3 Surety:

§ 4.3.1 Name of bonding company:

<< >>

§ 4.3.2 Name and address of agent:

<< >>

§ 5 FINANCING

§ 5.1 Financial Statement.

§ 5.1.1 Attach a financial statement, preferably audited, including your organization's latest balance sheet and income statement showing the following items:

Current Assets (e.g., cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory and prepaid expenses);

Net Fixed Assets;

Other Assets;

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Current Liabilities (e.g., accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries and accrued payroll taxes);

Other Liabilities (e.g., capital, capital stock, authorized and outstanding shares par values, earned surplus and retained earnings).

§ 5.1.2 Name and address of firm preparing attached financial statement, and date thereof:

« »

§ 5.1.3 Is the attached financial statement for the identical organization named on page one?

« »

§ 5.1.4 If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent-subsidiary).

« »

§ 5.2 Will the organization whose financial statement is attached act as guarantor of the contract for construction?

« »

§ 6 SIGNATURE

§ 6.1 Dated at this « » day of « » « »

Name of Organization: « »

By: « »

Title: « »

§ 6.2

« »

M « » being duly sworn deposes and says that the information provided herein is true and sufficiently complete so as not to be misleading.

Subscribed and sworn before me this « » day of « » « »

Notary Public: « »

My Commission Expires: « »

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COMMONWEALTH OF VIRGINIA

WORKERS' COMPENSATION

Certificate of Coverage

Section 2.2-4332, Code of Virginia, requires construction contractors and subcontractors to obtain and maintain workers' compensation insurance while performing work on behalf of the Commonwealth of Virginia, its departments, institutions, or agencies. This same requirement applies on behalf of local governments.

Evidence of coverage must be provided prior to commencement of Work.

This form must be completed and returned to the organization contracting the Work.

The undersigned organization stipulates that it:

- A. has workers' compensation insurance and is in compliance with the Workers' Compensation statutes of the Commonwealth of Virginia. ____ Yes ____ No
Insurance Company _____
Policy expiration date _____
- B. is self insured for workers' compensation. ____ Yes

Title of Construction Contract: _____

Contract Number: _____

Signed by: _____

Title: _____

Firm Name: _____

Address: _____

CERTIFICATION OF BIDDER REGARDING DEBARMENT
BY AGENCY OF THE COMMONWEALTH OF VIRGINIA

This is to certify that this person/firm/corporation has not been barred from bidding on contracts by any agency of The Commonwealth of Virginia, nor is this person/firm/corporation a part of any firm/corporation that has been barred from bidding on contracts by any agency of The Commonwealth of Virginia.

Name of Official

Title

Firm or Corporation

Date

 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 TBD day of in the year Two Thousand Twenty-Six
(In words, indicate day, month and year.)

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

City of Staunton
116 West Beverly Street, 3rd Floor
Staunton, Virginia 24401

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

TBD

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

City of Staunton Park Facilities Improvements

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

Thompson & Litton
726 Auburn Avenue
Radford, VA 24141

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

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

TABLE OF ARTICLES

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

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

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

(Check one of the following boxes.)

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

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

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

§ 3.3 Substantial Completion

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

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

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

[] By the following date:

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

Portion of Work

Substantial Completion Date

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

ARTICLE 4 CONTRACT SUM

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

§ 4.2 Alternates

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

Item

Price

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

Item

Price

Conditions for Acceptance

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

Item

Price

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

Item

Units and Limitations

Price per Unit (\$0.00)

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

§ 4.6 Other:

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

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for

Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than () days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

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

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

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

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

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

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

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

§ 5.1.7 Retainage

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

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

§ 5.1.7.1.1 The following items are not subject to retainage:

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

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

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

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

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

§ 5.2 Final Payment

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

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

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

§ 5.3 Interest

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

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

%

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

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

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the

method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

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

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

ARTICLE 7 TERMINATION OR SUSPENSION

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

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

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

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

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

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

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

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a

Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

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

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

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

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

.5 Drawings

Number	Title	Date	
.6	Specifications		
Section	Title	Date	Pages

.7 Addenda, if any:

Number	Date	Pages
--------	------	-------

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

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

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

[] The Sustainability Plan:

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

[] Supplementary and other Conditions of the Contract:

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

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

OWNER (Signature)

(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)

Additions and Deletions Report for **AIA® Document A101® – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 18:33:24 EDT on 04/22/2026.

Changes to original AIA text

PAGE 1

AGREEMENT made as of the TBD day of–_ in the year Two Thousand Twenty-Six

PAGE 2

Variable Information

PAGE 1

AGREEMENT made as of the TBD day of–_ in the year Two Thousand Twenty-Six

City of Staunton 116 West Beverly Street, 3rd Floor

Staunton, Virginia 24401

TBD

City of Staunton Park Facilities Improvements

Thompson & Litton

726 Auburn Avenue
Radford, VA 24141

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 18:33:24 EDT on 04/22/2026 under Order No. 20250109163 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

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User Notes:

(69e91376c05f35c229fa8b62)

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than one million dollars (\$ 1,000,000.00) per claim and one million dollars (\$ 1,000,000.00) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than one million dollars (\$ 1,000,000.00) per claim and two million dollars (\$ 2,000,000.00) in the aggregate.

PAGE 6

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

☒ **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an “all-risks” completed value form.

☒ **§ A.3.3.2.5** Property insurance on an “all-risks” completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

☒ **§ A.3.3.2.6 Other Insurance**

PAGE 7

§ A.4.1 All certificates and/or endorsements of insurance shall comply and conform to §38.2-518 of the Code of Virginia.

§ A.4.2 All insurance shall be written by insurance companies licensed to do business in the Commonwealth of Virginia, and have an A.M. Best Rating of A- or better.

§ A.4.3 The Contractor shall provide the Architect with three (3) copies of all required insurance certificates, and endorsements.

§ A.4.4 Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 45 days prior written notice has been given to the Contractor and the Owner.



THOMPSON
& LITTON

REQUEST FOR ELECTRONIC FILES

T&L PROJECT NUMBER: 18861

PROJECT NAME: City of Staunton Park Facilities Improvements

FILES REQUESTED: _____

AUTOCAD VERSION REQUESTED: _____

The undersigned organization accepts the following provisions regarding use of the requested electronic files:

- A. The undersigned agrees not to reuse these electronic files, in part or in whole, for any purpose or project other than the above referenced project.
- B. The undersigned agrees to waive all claims against Thompson & Litton resulting in any way from any unauthorized changes or reuse of these electronic files for any other project by anyone other than Thompson & Litton.
- C. The undersigned is aware that significant differences may exist between the electronic files delivered and the respective construction documents due to addenda, change orders, or other revisions. In the event of a conflict between the signed construction documents prepared by Thompson & Litton and electronic files, the signed construction documents shall govern.
- D. The undersigned agrees that any subcontractors to the undersigned which utilize these electronic files will be bound by all of the above provisions.

Signed by: _____

Title: _____

Firm Name: _____

Date: _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that _____

(Insert full name or legal title and address of Contractor)

As Principal, hereinafter called Contractor,
and _____

(Insert full name or legal title and address of Surety)

As Surety, hereinafter called Surety, are held and firmly bound unto _____

(Insert name and address of Owner)

As Obligee in the amount of:

Dollars.

(Insert sum equal to contract price in both words and figures)

for the payment whereof Contractor and Surety bind themselves, their heirs, executors,
administrators, successors and assigns, jointly and severally, firmly by these presents

WHEREAS,

Contractor has by written agreement dated _____
,entered into a Contract with Owner for:

(Insert name or description and location of project)

in accordance with Drawings and Specifications as prepared by:

(Insert full name or legal title and address)

which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, in strict conformity with the Drawings, Specifications and Contract Documents, then this obligation shall be null and void. Otherwise, it shall remain in full force and effect for one (1) year after completion of all work:

- a. The Surety hereby waives notice of any alternation or extension of time made by the Owner.
- b. Any suit under this bond must be instituted, (1) before the expiration of one (1) year after completion of the Contract including the expiration of all warranties and guarantees, or (2) before the expiration of one (1) year after a defect or breach of warranty is discovered, if the action be for such.
- c. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the successors or assigns of Owner and every action brought hereon shall be filed and maintained solely in the General District Court or the Circuit Court of the City of Staunton, Virginia.

SIGNED AND SEALED THIS _____ day of _____ , _____

In the presence of:

PRINCIPAL (SEAL)

WITNESS

BY TITLE

SURETY

WITNESS

BY TITLE

Surety: (Attach power of attorney)

CONTRACTOR'S PERFORMANCE BOND

Project: _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

that _____

(Insert full name or legal title and address of Contractor)

as Principal, hereinafter called Contractor,

and _____

(Insert full name or legal title and address of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto

(Insert full name or legal title and address of Owner)

as Obligee for the use and benefit of claimants as herein below defined in the amount of: _____

(Insert sum equal to contract price in both words and figures)

for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated
entered into a Contract with Owner for:

(Insert name or description and location of project)

in accordance with Drawings and Specifications as prepared by: _____

(Insert full name or legal title and address)

which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Contractor shall promptly make payment to all claimants as hereinafter defined, for all labor and materials used or reasonable required for use in the performance of the Contract, then this obligation shall

be void. Otherwise, it shall remain in full force and effect, subject, however, to the following conditions:

- a. A Claimant is defined as one having a direct contract with the Contractor for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
- b. The above-named Contractor and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work of labor was done or performed, or materials were furnished by such claimant, may sue on this bond, prosecute the suit to final judgment for such sum or sums as may be justly due claimant and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.
- c. Any suit or action hereunder by any claimant:
 1. Shall not be commenced after the expiration of one (1) year following the date on which the claimant last performed labor or last supplied materials.
 2. Shall be filed and maintained solely in the General District Court or the Circuit Court of the City of Staunton, Virginia.

SIGNED AND SEALED THIS _____ day of _____
in the presence of:

PRINCIPAL (SEAL)

WITNESS

BY _____ TITLE _____

SURETY (SEAL)

WITNESS

BY _____ TITLE _____

Surety:
(Attach power of attorney)

CONTRACTOR'S LABOR AND MATERIAL
PAYMENT BOND

Project _____

**THOMPSON
& LITTON****PAYMENT APPLICATION CHECKLIST***(must be submitted by Contractor with each Application for Payment)*

APPLICATION FOR PAYMENT NO.: _____

PROJECT NAME: City of Staunton Park Facilities ImprovementsT&L PROJECT NO.: 18861

CONTRACTOR NAME: _____

FIRST PAYMENT APPLICATION (IN ADDITION TO PROGRESS PAY APPLICATIONS ITEMS BELOW):

- ☐ SCHEDULE OF VALUES HAS BEEN SUBMITTED AND APPROVED
- ☐ FIELD OFFICE IS IN PLACE (IF APPLICABLE)
- ☐ SUBCONTRACTOR LIST HAS BEEN SUBMITTED
- ☐ PROJECT/BUSINESS SIGN SKETCH(ES) SUBMITTED AND APPROVED

PROGRESS PAYMENT APPLICATIONS:

- ☐ CONSTRUCTION PHOTOGRAPHS
- ☐ CONSTRUCTION PROGRESS SCHEDULE (N/A FOR FINAL PAY APPS)
- ☐ WEATHER DELAY REQUEST
- ☐ ALL APPLICABLE SUPPORTING DOCUMENTATION
- ☐ AFFIDAVIT ATTESTING TO OFF-SITE STORED PRODUCTS (IF APPLICABLE)
- ☐ SUSTAINABLE DESIGN DOCUMENTATION (IF APPLICABLE)

FINAL PAYMENT APPLICATION (IN ADDITION TO PROGRESS PAY APPLICATION ITEMS ABOVE):

- ☐ O&M DATA (IF APPLICABLE)
- ☐ GUARANTEES & WARRANTIES (IF APPLICABLE)
- ☐ PROJECT RECORD DOCUMENTS
- ☐ SPARE PARTS AND MAINTENANCE MATERIALS (IF APPLICABLE)
- ☐ LIST OF MANUFACTURERS, SUPPLIERS, SUBCONTRACTORS AND INSTALLERS WITH ADDRESSES/PHONE NOS.
- ☐ AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS
- ☐ AFFIDAVIT OF RELEASE OF LIENS
- ☐ CONSENT OF SURETY TO FINAL PAYMENT
- ☐ FINAL INSPECTION CONDUCTED AND PUNCH LIST ITEMS ADDRESSED
- ☐ FINAL CLEANING CONDUCTED

ESCROW ACCOUNT ELECTION

ELECTION OF ESCROW ACCOUNT PROCEDURE FOR RETAINAGE

If determined to be the successful low bidder(s), the below signed elects to use the Escrow Account Procedure for retainage.

Write "Yes" or "No" on above line

If the successful bidder elects ("Yes") to use the Escrow Account Procedure for Retainage, the following "Escrow Agreement" form provided below shall be executed and submitted to the City within fifteen (15) calendar days after notification. If the "Escrow Agreement" form is not submitted within the fifteen (15) day period, the Contractor shall forfeit his rights to the use of the Escrow Account Procedure.

Company: _____

Authorized Signature: _____

SIGNATURE PAGE TO FOLLOW

ESCROW AGREEMENT
CITY OF STAUNTON, VIRGINIA

THIS AGREEMENT ("Agreement"), made and entered into this _____ day of _____, 2026 by, between and among the City of Staunton, Virginia ("City" or Owner"),

_____, ("Contractor"),

_____, (Name of Escrow Agent)

_____, (Address of Escrow Agent)

a trust company, bank, or savings and loan institution (hereinafter referred to collectively as "Escrow Agent") with its principal office located in the Commonwealth of Virginia ("Commonwealth") and _____ ("Surety") provides:

I.

The City and the Contractor have entered into a contract dated _____ with respect to City of Staunton ITB No. _____, for _____ ("Contract"). This

Agreement is pursuant to, but in no way amends or modifies, the Contract. Payments made hereunder or the release of funds from escrow shall not be deemed approval or acceptance of performance by the Contractor. Payments should be made to _____ and mailed to _____ (Name and Address of Escrow Agent).

II.

In order to assure full and satisfactory performance by the Contractor of its obligations under the Contract, the City is required thereby to retain certain amounts otherwise due the Contractor. The Contractor has, with the approval of the City, elected to have these retained amounts held in escrow by the Escrow Agent. This agreement sets forth the terms of the escrow. The Escrow Agent shall not be deemed a party to, bound by, or required to inquire into the terms of the Contract or any other instrument or agreement between the City and the Contractor.

III.

The City shall from time to time pursuant to the Contract pay to the Escrow Agent amounts retained by it under the Contract. Except as to amounts actually withdrawn from escrow by the City, the Contractor shall look solely to the Escrow Agent for the payment of funds retained under the Contract and paid by the City to the Escrow Agent.

The risk of loss by diminution of the principal of any funds invested under the terms of the Contract shall be solely upon the Contractor.

Funds and securities held by the Escrow Agent pursuant to this Escrow Agreement shall not be subject to levy, garnishment, attachment, lien, or other process whatsoever. Contractor agrees not to assign, pledge, discount, sell or otherwise transfer or dispose of his interest in the escrow account or any part thereof, except to the Surety.

IV.

Upon receipt of checks drawn by the City and made payable to the Escrow Agent under this agreement, the Escrow Agent shall promptly notify the Contractor, negotiate the same and deposit or invest and reinvest the proceeds in approved securities in accordance with the written instructions of the Contractor. In no event shall the Escrow Agent invest the escrowed funds in any security not approved, as set forth in Section V. below.

V.

The following securities, and none other, are approved securities for all purposes of this Agreement:

- (1) United States Treasury Bonds, United States Treasury Notes, United States Treasury Certificates of Indebtedness or United States Treasury Bills,
- (2) Bonds, notes and other evidences of indebtedness unconditionally guaranteed as to the payment of principal and interest by the United States,
- (3) Bonds or notes of the Commonwealth of Virginia,
- (4) Bonds of any political subdivision of the Commonwealth of Virginia, if such bonds carried, at the time of purchase by the Escrow Agent or deposit by the Contractor, a Standard and Poor's or Moody's Investor Service rating of at least "A", and
- (5) Certificates of deposit issued by commercial Banks located within the Commonwealth of Virginia, including, but not limited to, those insured by the Escrow Agent and its affiliates.
- (6) Any bonds, notes, or other evidences of indebtedness listed in Sections (1) through (3) may be purchased pursuant to a repurchase agreement with a bank, within or without the Commonwealth of Virginia having a combined capital, surplus and undivided profit of not less than \$25,000,000, provided the obligation of the bank to repurchase is within the time limitations established for investments as set forth herein. The repurchase agreement shall be considered a purchase of such securities even if title, and/or possession of such securities is not transferred to the Escrow Agent, so long as the repurchase obligation of the bank is collateralized by the securities themselves, and the securities have on the date of the repurchase agreement a fair market value equal to at least 100% of the amount of the repurchase obligation of the bank, and the securities are held by a third party, and segregated from other securities owned by the bank.
- (7) No security is approved hereunder which matures more than five (5) years after the date of its purchase by the Escrow Agent or deposit by the Contractor.

VI.

The Contractor may from time to time withdraw the whole or any portion of the escrowed funds by depositing with the Escrow Agent approved securities as set forth in Section V. above in an amount equal to, or in excess of, the amount so withdrawn. Any securities so deposited or withdrawn shall be valued at such time of deposit or withdrawal at the lower of par or market value, the latter as determined by the Escrow Agent. Any securities so deposited shall thereupon become a part of the escrowed fund.

Upon receipt of a direction signed by the City of Staunton Director of Finance or designee, the Escrow Agent shall pay the principal of the fund, or any specified amount thereof, to the City or the Contractor as the City may direct. If payment is to be made to the Staunton City Treasurer, it shall be made in cash or cash equivalent. However, if payment has been authorized to be made to the Contractor, the Contractor

may specify to the Escrow Agent if payment is to be made in cash or in kind. Any such payment and delivery required hereunder shall be made as soon as is practicable after receipt of the direction.

VII.

For its services hereunder, the Escrow Agent shall be entitled to a reasonable fee in accordance with its published schedule of fees or as may be agreed upon by the Escrow Agent and the Contractor. Such fee and any other costs of administration of this Agreement shall be paid from the income earned upon the escrowed fund and, if such income is not sufficient to pay the same, by the Contractor.

VIII.

The net income earned and received upon the principal of the escrowed fund shall be paid over to the Contractor in quarterly or more frequent installments. Until so paid or applied to pay the Escrow Agent's fee or any other costs of administration, such income shall be deemed a part of the principal of the fund.

IX.

The Surety undertakes no obligation hereby but joins in this Agreement for the sole purpose of acknowledging that its obligations as surety for the Contractor's performance of the contract are not affected hereby.

X.

This Escrow Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia, without application of Virginia's conflict of law provisions. Venue and any actions for any litigation, suits, and claims arising from or connected with this Escrow Agreement and/or Contract referred to herein shall only be proper in the City of Staunton Circuit Court, or in the Staunton General District Court if the amount in controversy is within the jurisdictional limit of such court, and all parties to this Escrow Agreement and/or such Contract voluntarily submit themselves to the jurisdiction and venue of such courts, regardless of the actual location of such parties.

Escrow Account Election Form

IN WITNESS WHEREOF, the parties hereto have signed this Escrow Agreement by their authorized representatives.

Attest: (if corporation)
Witness: (if individual)

Typed Name of Contractor

Attest:

President/Vice-President
Partner or Owner (Seal)

Typed Name of Escrow Agent

Bank Officer

Vice President

Witness:

Typed Name of Surety Company

By: _____
Attorney-In-Fact

Attest:

City of Staunton, Virginia

City Clerk

City Manager

Approved as to form:

City Attorney

Approved as to execution:

City Attorney



THOMPSON
& LITTON

REQUEST FOR INFORMATION

RFI NO. _____

TO: Thompson & Litton, Inc.
726 Auburn Avenue
Radford, VA 24141
FAX: (540) 633-1896
Email: kpyles@t-l.com

From: _____

Date: _____

Please Respond By: _____

T&L Project No.: 18861

Project Name: City of Staunton Park Facilities Improvements

We request the following information/clarification:

SIGNED: _____

TITLE: _____

T&L RESPONSE:

BY: _____

DATE: _____



REQUEST FOR SUBSTITUTION

USE SEPARATE FORM FOR EACH SUBMITTAL

Note: Requests for Substitution will be considered
after project award.

DATE: _____

TO: _____

PROJECT NAME: City of Staunton Park Facilities Improvements

PROJECT NUMBER: 18861

NAME AND ADDRESS OF CONTRACTOR

HEREBY REQUESTS APPROVAL OF THE FOLLOWING PRODUCT OR SYSTEM AS AN "APPROVED
EQUAL"

NAME AND DESCRIPTION OF SPECIFIED PRODUCT OR SYSTEM:

SPECIFICATION SECTION NO. _____ PAGE(S) _____ PARAGRAPH(S) _____

DRAWING NO.(S) _____ DETAILS OR SECTION NO.(S) _____

NAME AND DESCRIPTION OF SUBMITTAL FOR SUBSTITUTION:

NAME OF MANUFACTURER: _____

ADDRESS: _____ TELEPHONE: _____

NAME OF VENDOR: _____

ADDRESS: _____ TELEPHONE: _____

REASON FOR NOT-GIVING PRIORITY TO SPECIFIED ITEMS:

SUBSTITUTION AFFECTS OTHER MATERIALS OR SYSTEMS:

YES____ NO____ IF YES, ATTACH COMPLETE DATA

SUBSTITUTION REQUIRES DIMENSIONAL REV. OR REDESIGN OF STRUCTURE OR M&E REV:

YES____ NO____ IF YES, ATTACH COMPLETE DATA

SAVING OR CREDIT TO OWNER FOR ACCEPTING SUBSTITUTION:

\$_____

THE ATTACHED DATA IS FURNISHED HERewith FOR EVALUATION OF THE SUBSTITUTION:

CATALOG_____ DRAWINGS_____ EXAMPLES_____ TESTS_____ REPORTS_____

OTHER_____

THE UNDERSIGNED HEREBY CERTIFIES THAT THIS SUBMISSION HAS BEEN FULLY CHECKED AND
COORDINATED WITH THE CONTRACT DOCUMENTS:

CONTRACTOR NAME

BY: _____

For Use by Thompson & Litton:

This Request is: _____ **Approved**
_____ **Denied**

Reviewed By: _____ **Date:** _____



AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

City of Staunton Park Facilities Improvements
Staunton, Virginia

THE OWNER:

(Name, legal status and address)

City of Staunton
116 West Beverly Street, 3rd Floor
Staunton, Virginia 24401

THE ARCHITECT:

(Name, legal status and address)

Thompson & Litton, Inc.
726 Auburn Avenue
Radford, Virginia 24141

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- 10 PROTECTION OF PERSONS AND PROPERTY
- 11 INSURANCE AND BONDS

ADDITIONS AND DELETIONS:

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™–2017, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

The Specifications are that portion of the Project Manual and 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. Notwithstanding such performance, in case of conflict, disagreement, or ambiguity, provide the

better quality of Work.

§ 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.

1.2.1.2 Plumbing, Mechanical, Fire Protection and Electrical drawings are diagrammatic, showing general locations and arrangements of piping, wiring, equipment, security and technology, and specialties; not necessarily showing all required offsets, conditions and appurtenances required for maximum practical accessibility for operation, maintenance and clearances. Coordinate this Work in order to achieve the required and intended Work and notify the Architect immediately of conditions which do not comply or will not allow for this condition.

§ 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 Unless otherwise required by the Owner and Architect Agreement, 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, 1.8, and 1.9 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 registered 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, including signature of receiver of such notices..

§ 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 shall 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, should such Exhibit be included in the Agreement.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model 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.

§ 1.9 If such Exhibits are not included in the Agreement, the Architect may, with the concurrence of the Owner, furnish to the Contractor versions of the Instruments of Service in electronic form. The Contract Documents executed or identified in accordance with Section 1.1.1 shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic operations involving computers. The Contractor shall not transfer or reuse Instruments of Service in electronic or machine readable form without the prior written consent of the Architect.

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. The Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

§ 2.2 Evidence of the Owner's Financial Arrangements

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

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

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

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the

Contractor may disclose “confidential” information, after seven (7) days’ notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose “confidential” information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

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

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

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

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

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

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

§ 2.3.6.1 At the Architect’s sole discretion, selected electronic (CAD) Drawing files may be made available for use by the Contractor after execution of the Contract Documents for Construction, with the exception of civil grading and layout plans, if authorized by civil consultant. Such electronic files are not part of the Contract Documents. If available, the Architect shall release them to the Contractor subject to the terms and conditions established by the Architect, to which the Contractor must agree without exception to prior release of the electronic files. Refer to www.t-l.com for the Architect’s current Request for Electronic (CAD) Files form, which defines the applicable terms and conditions.

§ 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. Amounts charged to the Contractor may, pursuant to Section 9.5.1, 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.

§ 3.1.3 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.

§ 3.1.4 During the performance of this Contract, the Contractor will include the provisions of the forgoing Sections 3.1.4.1 and 3.1.4.2 in every Subcontract or purchase order of over ten thousand dollars (\$10,000.00), so that the provisions will be binding upon each Subcontractor or vendor, and furthermore, the Contractor agrees as follows:

- .1 The Contractor will not discriminate against any employee or application for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- .2 The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employers.
- .3 Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting requirements of this section.
- .4 The Contractor does not, and shall not during the performance of this Contract, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.
- .5 Contractor hereby represents it is organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership and is authorized to transact business in the jurisdictions where the Project is located as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

§ 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, 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. 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.

§ 3.2.4 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.

§ 3.2.5 The Owner shall deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior correspondence or documentation.

§ 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 appropriate, 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 in writing, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

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

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

§ 3.4 Labor and Materials

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

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

§ 3.4.2.1 After the Contract has been executed, the Owner and Architect will consider a formal request for substitution in lieu of those required by the Contract Documents only under and in addition to, the conditions set forth in the Contract Documents. By making requests for substitutions, the Contractor:

- .1 represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to requirements of the Contract Documents;

- .2 represents that the Contractor will provide the same warranty for the substitution that the Contractor is required to provide under the Contract Documents;
- .3 certifies that the cost data presented is complete and includes all related costs under this Contract including the Architect's redesign costs, waives all claims for additional costs and time related to the substitution which subsequently become apparent; and
- .4 will coordinate and perform the installation of the accepted substitute, making such changes to the Work as may be required for the Work to be complete in all respects.

§ 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.

§ 3.4.4 The Owner shall deduct from the Contract Sum amounts paid to the Architect for the Architect to review the Contractor's proposed substitutions, to make agreed-upon changes in the Instruments of Service, including the Contract Documents, and to provide additional construction phase services made necessary by the Owner's acceptance of such substitutions.

§ 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.

§ 3.6.1 The 179D tax deduction incentivizes building owners and designers for designing energy-efficient building systems, including lighting, HVAC, and building envelope components. Since government entities do not pay taxes this deduction is not available to the Owner. Current tax code allows for this deduction to be allocated to the Architect by the Owner on eligible projects to help incentivize energy-efficient building design.

§ 3.6.2 The Contractor recognizes that the Architect is the only entity eligible to pursue such allocations in accordance with 26 U.S. Code §179D, which reads in part, "The allocation of the deduction [is] to the person primarily responsible for designing the property in lieu of the owner of such property." The Contractor further acknowledges the Architect as the primary designer of the project for the purposes of 179D and agrees not to pursue the deduction or to request any portion thereof from the Architect or Owner.

§ 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.

§ 3.7.1.1 Unless otherwise provided in the Contract Documents, the Contractor is responsible for obtaining utilities for the Project and providing the Work relating to Project utilities as indicated. Responsibility for payment of fees associated with providing utilities to the Project shall be as follows:

- .1 Any fees assessed by entities for providing permanent utilities to the Project shall be paid directly to the utility entities by Owner. These include "tap fees" and "electrical connection and service fee." Contractor shall coordinate the permanent utilities and the entity's related work to comply with the construction schedule.

.2 Any fees assessed by entities for providing temporary utilities to the Project for use by Contractor during construction of the Project shall be paid by the Contractor. The Contractor's payment of fees for temporary utilities shall be included in the Base Bid and Contract Sum and will not be reimbursed by the Owner.

§ 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 review 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 determine that an equitable adjustment should 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 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. The Contractor shall identify the date for Owner's selection on the critical path of the Contractor's Construction Schedule and provide the Owner a minimum of two weeks' notice before this date.

§ 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 Owner may notify the Contractor, stating whether the Owner (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Owner to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner has made reasonable and timely objection. The Contractor shall not change the superintendent or project manager 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. Unless otherwise required by the Contract Documents; the schedule shall contain details 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 the Substantial Completion date and final completion date indicated in 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 in accordance with section 3.12. Unless otherwise required by the Contract Documents, 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 accepted 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.

§ 3.11 Documents and Samples at the Site

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

§ 3.12 Shop Drawings, Product Data and Samples

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

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

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

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

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule accepted by the Architect or, in the absence of an accepted 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 accepted by the Architect.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance 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 acceptance to the specific deviation in accordance with 3.12.9 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 acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing on a cover letter attached to the original or on the case of a resubmittal, on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions or deviations 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 or deviations.

§ 3.12.10 The Contractor shall not be required (delegated design) 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 such delegated 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 provide 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, licensed in the state where the Project is located, 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 provided 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 take 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.

§ 3.12.11 The Architect's review of Contractor's submittals will be limited to examination of an initial submittal and one (1) resubmittals. The Architect's review of additional resubmittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall deduct from the Contract Sum amounts paid to the Architect for evaluation of such additional

§ 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. Such terms as “Architect-Engineer”, “Engineer”, and “A-E” if use din these Contract Documents, is intended to mean the Architect and its consultants unless otherwise intended by the context or usage of such terms. Such terms do not mean or include any design professional of the Contractor, Subcontractor, or Owner.

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

§ 4.1.3 Subject to the standard of care for applying professional judgement to information used or relied upon, Architect and its Consultants may use and rely upon design elements, technical standards, test results, and all other information ordinarily or customarily furnishes or published by others, including, but not limited to, specialty contractors, manufacturers, fabricators, and suppliers.

§ 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.

§ 4.2.2.1 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect or request of the Contractor.

§ 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 endeavor to 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) known defects and deficiencies 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 take appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for general conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken 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 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. 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 acceptance of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's acceptance of a specific item shall not indicate acceptance 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 review and make determinations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; 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 (list of proposed subcontractors), including those who are to furnish materials or equipment fabricated to a special design no later than two days prior to the date of the Pre-Construction Conference. Include Contractor's License number and Class for each proposed Subcontractor. Within 14 days of receipt of the information, the Owner may notify the Contractor whether the Owner (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 has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner 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 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 complete 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 shall similarly make available copies of the complete Contract Documents 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 Owner and 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 Owner and Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

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

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

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

§ 6.3 Owner's Right to Clean Up

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

Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

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

§ 7.1.1.1 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.

§ 7.1.1.2 A Construction Change

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

§ 7.1.1.2.1 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 7.2

§ 7.1.1.2.2 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.

§ 7.1.1.2.3 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.

§ 7.1.1.2.4 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 opinion, 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.

§ 7.1.2 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.

§ 7.1.4 If a change in the Work results in an adjustment to the Contract Sum, the adjustment (increase or decrease) shall be based on the following unless otherwise noted:

- .1 Material quantities and unit prices (separated into trades; include sales tax).
- .2 Labor costs (raw cost).
- .3 Labor burden, applied to labor only, including but not limited to, worker's compensation and public liability, social security tax, old age and unemployment insurance, union welfare fund and fringe benefits. Contractor shall be required to substantiate the labor burden percentage applied to any change in contract amount. Labor burden percentage shall now exceed 30% in any case.

- .4 Construction equipment cost.
- .5 Overhead and profit combined (on Claims for net increase only), as defined in Section 7.3.11.
- .6 Cost of Premiums for Bonds (for Contractor only). Evidence of additional premium for bond shall be submitted with Claim.
- .7 Extended Overhead Costs (if applicable) which shall be established by pro-rating the value of supervision, temporary facility, and General Conditions and all other direct and indirect costs of Contractor included in the Contract Sum over the number of days included in the Contract Time.

§ 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

In Sections 7.2 and 7.2.1, the amount for overhead and profit combined, included in the total cost to the Owner, shall be based on the following schedule:

- .1 for the Contractor, for Work performed by the Contractor's own forces, 15 percent of the cost.
- .2 for the Contractor, for Work performed by the Contractor's Subcontractors, 5 percent of the amount due the Subcontractors.
- .3 for each Subcontractor involved, for Work performed by that Subcontractors own forces, 15 percent of the cost.
- .4 for each Subcontractor involved, for Work performed by that Subcontractors Sub-subcontractor, 5 percent of the amount due the Sub-subcontractor.
- .5 cost to which overhead and profit is to be applied shall be determined in accordance with Section 7.2.
- .6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs in the manner prescribed above. Where major cost items are changes to Subcontracts, they shall be itemized also. In no case will a change involving over \$500.00 be approved without such itemization.

§ 7.4 Minor Changes in the Work

In the Architect's opinion, 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, 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 and the Owner approves.

§ 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.

§ 9.3.2 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.

§ 9.3.2.1 Contractor shall provide invoices, package slips, or other form of supporting data for materials stored on-site claimed on the progress payment, unless it can be verified through on-site observations. Maintain concise bill of materials and label materials stored on-site for ready identification and verification.

§ 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, unless otherwise agreed upon, within seven working 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 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 general conformance 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 general 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 is not a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

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

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless

- security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
 - .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
 - .5 damage to the Owner or a Separate Contractor;
 - .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
 - .7 repeated failure to carry out the Work in accordance with the Contract Documents.

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

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

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

§ 9.6 Progress Payments

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

§ 9.6.1.1 The Owner may withhold payments to the Contractor notwithstanding the Architect's certification if it is necessary, in the Owner's opinion, to do so to protect the Owner from loss due to any of the reasons set forth in Sections 9.5.1.1 through 9.5.1.7.

9.6.2 Payment of Subcontractors

§ 9.6.2.1 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.

§ 9.6.2.2 Within seven (7) working days after receipt of amounts paid to the Contractor by the Owner for Work performed under this Agreement, the Contractor shall do one of the following:

- a. Pay each Subcontractor for the proportional share of the total payment received from the Owner attributable to the Work performed by the representative Subcontractor under this Agreement; or
- a. Notify the Owner and Architect, and Subcontractor, in writing, of the Contractor's intentions to withhold all or part of the Subcontractors payment with the reason for nonpayment.

§ 9.6.2.3 The Contractor shall pay interest to each Subcontractor on all amounts owed by the Contractor that remain unpaid after seven (7) days following the receipt by the Contractor of payment from the Owner for Work performed by the affected Subcontractor under this Agreement, except for amounts withheld as allowed in Section 9.6.8.1. Unless otherwise provided under the terms of this Agreement, for purposes solely of these prompt payment provisions, interest shall accrue at a rate of one percent (1%) per month.

§ 9.6.2.4 In each Subcontract, the Contractor shall include a provision requiring each Subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier Subcontractor (Sub-subcontractor).

§ 9.6.2.5 The Contractor's obligation to pay interest to a Subcontractor pursuant to the prompt payment provisions is not an obligation of the Owner, and no modification shall be made to this Agreement and no cost reimbursements claim shall be made for the purpose of providing reimbursement by Owner for such interest charge.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages

of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

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

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

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

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

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

§ 9.7 Failure of Payment

If, unless otherwise agreed upon, the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven working days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven working 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 working 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. 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 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.

§ 9.8.3.1 The Architect will provide no more than one (1) inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall deduct from the Contract Sum amounts paid to the Architect for any additional inspections.

§ 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 review 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 general compliance 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.

§ 9.10.1.1 The Architect will provide no more than one (1) inspections to determine whether the Work or a designated portion thereof has attained final completion in accordance with the Contract Documents. The Owner shall deduct from the Contract Sum amounts paid to the Architect for any additional inspections.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect for the record (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any

special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

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

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

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

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

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

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

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

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

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

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

§ 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 may 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 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 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 the Contractor has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor has 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.

(Paragraph Deleted)

§ 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 in a company or companies lawfully authorized to do business in Virginia 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 whose acts any of them may be liable:

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

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

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

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

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

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

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

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

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

§ 11.3.2 Boiler and Machinery Insurance

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interest 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.

§ 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 terms of Section 11.3.7 for damage 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 cause of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

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

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

§11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers, or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§11.4 Performance Bond and Payment Bond

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

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

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically

expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's review 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 review 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 without change to the contract time.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or Owner or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense without change to the Contract Time.

§ 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.

§ 12.2.2.4 If required by the Owner and the Architect and, upon request by the Owner and prior to the expiration of one year from the date of Substantial, the Architect will conduct and the Contractor shall attend a meeting with the Owner to review the facility operations and performance and the Work.

§ 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.

§ 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.

§ 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 without change to contract time.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and submitted 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 in a timely manner 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 working 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 working 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 determination 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 determined by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

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

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

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

§ 14.4 Termination by the Owner for Convenience

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

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

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

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

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

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

§ 15.1.2 Time Limits on Claims

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

§ 15.1.3 Notice of Claims

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

the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

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

§ 15.1.4 Continuing Contract Performance

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

§ 15.1.4.2 The Contract Sum, Contract Time, or both 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. Time extensions from adverse weather conditions shall not entitle the Contractor to "extended overhead" recovery.

§ 15.1.6.2.1 Weather data utilized to support claims for adverse weather conditions shall be that obtained from the National Oceanic and Atmospheric Administration (NOAA) for the nearest weather station to the Project. Adverse weather conditions are defined as measurable precipitation (MP) of 0.1 " or more, or 1.0" or more of snow or ice pellets, or freezing temperature (FT) for a day (24 hours) when the temperature remains at 32 degrees Fahrenheit or below. Only measurable precipitation (MP) or freezing temperatures (FT) shall be permitted to be claimed for any Project time and claims shall not be permitted for days for dying out of rain-soaked soil, snow accumulation, or similar weather-related condition or resulting Project conditions.

.1 The Contractor agrees that it shall not be entitled to a time extension for normal inclement weather, (weather conditions other than "adverse weather conditions") which could have been expected at the Project locale due to precipitation or temperature, based upon actual data from the National Oceanic and Atmospheric Administration (NOAA) for the locality closest to the Project for a five-year period preceding the date of the Contract. The Contractor acknowledges and warrants that in making its proposal or bid and Construction Schedule for the Work, it gave due care and consideration to this expected number of calendar days of inclement weather for the locale of the Project and allowed for the impact of normal inclement weather on subsequent Work. During the time of performance, should the expected number of calendar days of normal inclement weather for the locale of the Project be less than originally anticipated by the Contractor and the Owner, at the time of contracting, those days not so affected by normal inclement weather shall be considered float time in the Construction Schedule.

.2 The Contractor agrees that the measure of adverse weather conditions to MP or FT during the period covered by this Contract shall be the number of days where adverse weather conditions comply with the weather data referenced in subparagraph 15.1.6.2.1.

.3 Extensions of time will be made only for days in which abnormal adverse weather criteria cited in subparagraph 15.1.6.2.1 occur.

.4 If the total calendar days lost to adverse weather conditions, from the start of the Work at the Project by the Contractor until the principal portions of the Work are enclosed, exceeds the total number of days to be expected to be lost for the same time period, a time extension, if granted, shall only be for the number of calendar days needed to equal the excess number of calendar days lost to such adverse weather conditions.

§ 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 working days after the Claim has been referred to the Initial Decision Maker, subject to Section 15.2.6 the party asserting the Claim may demand mediation without a decision having been rendered. 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 working 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 working 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 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, or if no decision has been rendered in accordance with Section 15.2.1, 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.

§ 15.3.3 Either party may, within 30 working days from the date that mediation has been concluded without resolution of the dispute or 60 working 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 working days after written 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.

SUPPLEMENTARY GENERAL CONDITIONS

The following supplements modify, change, delete from or add to the “**General Conditions of the Contract for Construction**” **AIA Document A201, 2017 Edition that was supplied with the invitation to bid**. 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 consist of documents enumerated in the Agreement between Owner and Contractor (hereinafter the Agreement) and also include 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, Standard Form of Agreement Between Owner and Contractor (AIA Document A101), Employment Verification Act, Affidavit Accepting Provisions of any applicable, Bid Bond, Performance & Payment Bonds, Conditions of the Contract (General, Supplementary and Special), City Of Staunton / VPPA Project Requirements / Federal Requirements (Section 000515), Employment Verification Act Provisions (Section 000516), List of Drawings, the Drawings, Specifications, all Addenda issued prior to execution of the Contract and all modifications thereto. Whenever used in a Contract Document, the term “Contract” or “Agreement” includes all exhibits to the Contract or Agreement.

DELETE the last sentence of Subparagraph 1.1.1 in its entirety.

Subparagraph 1.1.2 – The Contract

ADD the following to the end of the paragraph:

[*Add:*] “Each of the signatories below warrants and represents that he or she is authorized to bind the party on behalf of whom he or she is signing.”

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.
- 1.1.15 The terms “cost,” “expense,” or “fee” mean any amount paid or charged for something.
- 1.1.16 The term “including” also means including but not limited to the particular listing or description.

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.

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 (including Section 000515) (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 subject to Subparagraph 1.2.5 above; 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 Thompson & Litton, Inc. Thompson & Litton, Inc. 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 Thompson & Litton, Inc. violates the copyright laws of the United States and will be subject to legal prosecution.

Paragraph 1.6 – Notice

Subparagraph 1.6.1

ADD “reputable overnight delivery service” to the list of notice methods in 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:] “, if such electronic transmission is actually received by the individual for which it was intended. In addition, notice to the Contractor may be in the form of meeting minutes.”

ADD the following new sentence to the end of Subparagraph 1.6.1:

[Add:] Notice by mail shall be effective three (3) days after deposit in the mail, unless notice is received earlier.

Paragraph 1.7 – Digital Data Use and Transmission

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

[Replace] “If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing

such transmission, unless otherwise already provided in the Agreement or the Contract Documents.”

Paragraph 1.8 – Building Information Models Use and Reliance

DELETE beginning in the second line “and without having those protocols..... Project Building Information Modeling Protocol Form,”

ARTICLE 2 - OWNER

Paragraph 2.1 - General

Subparagraph 2.1.1

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

**The City of Staunton, Virginia
116 W. Beverley Street, Staunton, VA 24401**

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 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 suspected or discovered that may affect the Work.”

Subparagraph 2.3.5

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

INSERT in the first line “, or fails under any circumstances” after “defaults or neglects” in the same such sentence.

REVISE the second line of the first sentence from “a ten-day period” to a “a seven-day period” and

INSERT “or failure” after the repeated phrases “default or neglect.”

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 or failure, including Owner’s expenses and any fees or costs charged by contractors, consultants, experts, 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 take any corrective action 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, as determined in the sole discretion of Owner.”

ADD new Paragraph 2.6 as follows:

Paragraph 2.6 – Owners Representative Subparagraph 2.6.1

Owner's Representative during construction is Owner's designated and authorized representative to stop work for, including, but not limited to, unsatisfactory field test results, deficient materials, equipment or systems, deficient work or unsatisfactory installations. The following is a description of the services being provided by Owner's Representative to Owner and how Owner's Representative is to interact with Architect and Contractor. Owner's Representative shall assist Owner in observing performance of the work of Contractor. Owner's Representative shall endeavor to provide further protection for Owner against defects and deficiencies in the work of Contractor; but, furnishing of such services or taking any action will not make it responsible for or give them control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for Contractor's failure to perform the Work in accordance strictly with the Contract Documents and in particular the specific limitations set forth in this Agreement as applicable. The duties and responsibilities of Owner's Representative are limited and described further as follows:

- 2.6.1.1 Owner's Representative is Owner's agent at the site and will act as directed by and under the supervision of Owner and will confer with Architect, Owner and Contractor, keeping Owner advised as necessary. Owner's Representative's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor.
 - 2.6.1.2 Schedules: Review the progress schedule, schedule of shop drawing submittals and schedules of value prepared by Contractor and consult with Architect and Owner concerning acceptability and monitor Contractor's prepared Project Schedule and Contractor's progress and conformance with project completion dates, pursuant to the schedule criteria.
 - 2.6.1.3 Conferences and Meetings: Attend meetings with Architect and Contractors, such as Pre-Construction Conferences, Progress Meetings, Job Conferences, and other project-related meetings.
 - 2.6.1.4 Liaison: Service as Owner's liaison with Contractor, and assist in understanding the intent of the Contract Documents; assist Architect and Owner in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.
 - 2.6.1.5 Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
- 2.6.2 Shop Drawings and Samples:
- 2.6.2.1 Advise Architect, Owner and Contractor of the commencement of any Work requiring a shop drawing or sample or if the submittal has not been approved by Architect and Owner.
- 2.6.3 Review of Work, Rejection of Defective Work, Inspections and Tests:
- 2.6.3.1 Conduct on-site observation of Work in progress to assist Architect and Owner in determining if the Work is, in general, proceeding in accordance with the Contract Documents.
 - 2.6.3.2 Report to Architect and Owner whenever any Work is believed to be unsatisfactory, faulty, or defective or does not conform to the Contract Documents, or has been

damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Architect and Owner of Work that is believed should be corrected or rejected or should be uncovered for observation or requires special testing, inspection or approval. Owner's Representative shall be officially designated to act on Owner's behalf as its authorized representative to exercise Owner's right to stop and/or suspend work or reject materials, equipment and systems or other non-conforming, deficient, incomplete and unacceptable work in complete accordance with AIA General Conditions, Article 2.3, provided in the Contract Documents by Architect.

Verify that all tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof; and observe, record, and report to Architect and Owner.

2.6.4 Interpretation of the Contract Documents: Report to Architect and Owner when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor any clarifications and interpretations as issued by Architect and Owner.

2.6.5 Modifications: Consider and evaluate Contractor's suggestions for modifications on Drawings or Specifications and report any recommendations to Architect and Owner. Transmit to Contractor decisions issued by Architect and Owner.

2.6.6 Records:

2.6.6.1 Maintain at the job site orderly files for correspondence, reports of Job Conferences, Shop Drawings and Samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional drawings issued subsequent to the execution of the Contract, Architect and Owner clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.

2.6.6.2 Keep a diary or log book, recording Contractor hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures and send copies to Architect and Owner.

2.6.7 Reports:

2.6.7.1 Furnish Architect and Owner periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of shop drawing and sample submittals.

2.6.7.2 Consult with Architect and Owner in advance of scheduled major tests, inspections or start of important phases of the Work.

2.6.7.3 Report immediately to Architect and Owner upon the occurrence of any accident.

2.6.8 Payment Requests: Review Applications for Payment with Contractor for compliance with the established procedures for their submission and forward with recommendations to Architect and Owner, noting particularly the relationship of the

payments requested to the Schedule of Values, Work completed and materials and equipment delivered at the site but not incorporated into the Work.

2.6.9 Completion:

- 2.6.9.1 Before Architect and Owner issue a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- 2.6.9.2 Conduct a final inspection in the company of Architect, Owner, and Contractor and prepare a final list of items to be completed or corrected.
- 2.6.9.3 Observe that all items on the final list have been completed or corrected and make recommendations to Architect and Owner concerning acceptance.

2.6.10 Owner's Representative - Limitations of Authority:

- 2.6.10.1 Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by Architect and Owner.
- 2.6.10.2 Shall not exceed limitations of Architect and Owner's authority as set forth in the Agreement or the Contract Documents.
- 2.6.10.3 Shall not undertake or limit any of the responsibilities of Contractor, Subcontractors or Contractor's superintendent.
- 2.6.10.4 Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences, or procedures of construction or safety unless such advice or directions are specifically required by the Contract Documents.
- 2.6.10.5 Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
- 2.6.10.6 Shall not authorize Owner to occupy the Project in whole or in part.
- 2.6.10.7 Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Architect and Owner.

ARTICLE 3 - CONTRACTOR

Paragraph 3.1 - General

Subparagraph 3.1.1

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

[Add:] "It shall be understood that the term "Contractor", as used throughout the General Conditions, applies to each Contractor entering into a Contract with Owner except where specifically noted otherwise."

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 or suspected such error, inconsistency or omission and failed to report it immediately 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 or suspects 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 or suspect 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 and fees by consultants, experts, attorneys or Owner's Representative, and fees and 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 or failure of Contractor. The Owner is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rule and regulations, but any nonconformity discovered or suspected by or made known to the Contractor shall be reported promptly to the Architect. The Contractor stipulates and agrees that the Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications and other Construction Documents and has no duty to notify Contractor of same. By entering into the Contract Documents or any agreement with any Architect, Owner does not warrant the adequacy and accuracy of any Drawings, Plans, Specifications or other Construction Documents.

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, or (2) any payment or liability for fees or costs to Owner's Representative, Architect, consultants, experts and attorneys.

Subparagraph 3.3.3

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

[Add:] "In the event Contractor discovers or suspects that portions of the Work related to

another Prime Contractor's work are not in proper condition to receive subsequent work, Contractor shall notify Architect immediately of such. In the event Contractor fails to so notify Architect immediately of such or otherwise fails to inspect previous Work in accordance herewith, and proceeds, Contractor shall be responsible for any such costs associated therewith.

ADD the following new Subparagraphs:

The General Contractor is designated as the Lead Contractor for this Project. Each Sub-Contractor shall coordinate its work with the work of the Lead and other Sub-Contractors. The Lead Contractor is responsible for making all coordination decisions not mutually agreed to by the affected Sub-Contractors. Disputes between the Lead Contractor and one or more Sub-Contractors and disputes between two or more Sub-Contractors pertaining to the creation, application, and modification of the Project Schedule, the furnishing of additional resources to meet the project schedule, job coordination, and all aspects of the coordination, means and methods of construction shall be submitted promptly to the Lead Contractor for a final construction decision. The final construction decision of the Lead Contractor must, at all times, be consistent with the content and intent of the Contract Documents. The final construction decision of the Lead Contractor shall be observed, accepted and fully followed by the Lead Contractor and all Sub-Contractors and their Subcontractors and Sub-subcontractors on the Project, subject only to the commencement of a proceeding pursuant to provisions of Article 15 at the request of the Lead Contractor or other Sub-Contractor. The progress of the Work in accordance with the final construction decision of the Lead Contractor shall not be delayed pending any proceeding pursuant to Article 15. The damage remedy in any Article 15 proceeding or dispute resolution proceeding in favor of the Lead Contractor or other Sub-Contractor shall be the exclusive remedy for disputes between or among Contractors. Contractors, including the Lead Contractor, shall have no right of action against Owner in connection with such disputes.

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.

3.3.5 Refer to Division 1, Section "Project Coordination" for detailed requirements regarding coordination of multiple prime contracts.

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 3.4.3

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 City in which the work is being performed. Contractor shall be licensed in accordance with all applicable requirements of the Commonwealth of Virginia and the City of Staunton. Upon request of Owner, Contractor shall remove from the project any worker who is believed to be incompetent, careless or unsafe or is believed or suspected to put at risk the safety or welfare of any person or of the security of any property. The Contractor acknowledges that there may or will be employees of the Owner on or about the location where the Work is being performed and shall take affirmative precautions and institute specific safeguards to protect such persons at all times, including but not limited to conducting any update to background checks, and the use and display of photographic and name identification badges."

ADD the following new subparagraph:

3.4.5. The Contractor shall disclose in writing the existence and extent of any financial interests, whether direct or indirect, he has in subcontractors and material suppliers which he may propose for the Project.

Paragraph 3.5 – Warranty

Subparagraph 3.5.1

DELETE "inherent in the quality of the work the Contract Documents require or permit" 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 fully secure and protect both new work and existing conditions during the period of construction which may be susceptible to damage or abuse or risk of loss in any regard."

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. Equipment and facilities which have seasonal limitations on their operation (e.g. heating or air conditioning units) shall be guaranteed for one (1) full

year from the date of seasonally appropriate tests and acceptance, in writing, by the Owner. 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 or compromised by such correction.

3.5.4 At the end of the 11-month period from Substantial Completion 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 timely initiating and scheduling the eleven (11) month walk-through inspection contemplated in this warranty Section.

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 Contractor for General Construction shall secure the general building permit for the Project. Fees for this permit shall be paid directly by Owner.

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

INSERT "or suspecting" after "knowing" in the first line.

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.

Paragraph 3.7.4 – Concealed or Unknown Conditions

In the first sentence, strike "14" and substitute "3" before "days."

Paragraph 3.8 - Allowances

DELETE Paragraph 3.8 in its entirety. No cash allowances are permitted.

Paragraph 3.9 – Superintendent

DELETE the final sentence of Subparagraph 3.9.3 and SUBSTITUTE the following:

[Substitute:] "The Contractor shall notify the Architect and Owner in writing of any proposed

replacement of an incumbent Superintendent. The Contractor shall not voluntarily replace a Superintendent without prior written and discretionary approval from the Owner. The requirements contained in this Article shall apply to any proposed replacement Superintendent, regardless if the proposed tenure is to be temporary or permanent.”

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

Subparagraph 3.12.4

ADD the following new Sub-sub paragraphs:

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.

3.12.4.1 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.

- 3.12.4.2 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.
- 3.12.4.3 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.
- 3.12.4.4 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.
- 3.12.4.5 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.

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.

- 3.12.4.6 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.

3.12.4.7 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.

Subparagraph 3.12.10

ADD “, but if the Contractor becomes aware of any inadequacy or inaccuracy in such Contract Documents, he shall bring such inadequacy or inaccuracy to the attention of the Architect.” after “The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents”.

ADD new Subparagraph 3.12.12 as follows:

3.12.12 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, including but not limited to professional fees and 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 ", defend, " after the word "indemnify" and "of any kind" after the word "expenses" in the first sentence.

ADD "Contractor's breach of any obligation or warranty under this Agreement, or from " after the word "from" on line 3.

DELETE "negligent" before the phrase "acts or omissions" 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 the following to the end of the subparagraph:

[Add:] Contractor's indemnification obligation shall not apply when the claim, damage, loss, or expense is caused by the sole negligence of the Owner or its employees. This indemnity agreement shall impose liability on the Contractor to the fullest extent permitted by the laws of Virginia, and any provision hereof not permitted by such laws is expressly deleted from said agreement. For the avoidance of doubt, the acts or omissions described in (b) above shall include, without limitation, (i) any act or omission of a person described in providing supervisory, inspection or engineering services, (ii) any act or omission of a Performing Party in connection with any design, application, professional advice or opinion rendered to the Owner or on the Owner's behalf, and (iii) any act or omission of a Performing Party in connection with the use or misuse of any substance, material, machinery, hoist, rigging, block, scaffolding, or any and all kinds of equipment whether or not owned, furnished or lent by the Owner."

ADD the following new subparagraphs as follows:

3.18.3 In the event of accidents involving personal injury or property damage, the Contractor shall immediately notify the Owner, furnishing as much data as is available. As soon as practicable, Contractor shall furnish to the Owner a written report indicating the extent of the damage, the persons involved, the employer of the persons involved and the number of days each person is hospitalized. Notification of any accident shall not relieve the Contractor of its obligations regarding safety for the Project.

- 3.18.4 The purchase of insurance by the Contractor shall in no event be construed as a fulfillment or discharge of the obligations set forth in this section.
- 3.18.5 Where the facts or the law relating to any threatened or actual claim would preclude the Indemnified Party from being completely indemnified, the indemnified party will be partially indemnified by the indemnifying party to the fullest extent permitted by the law.

ADD the following new Paragraphs as follows:

- 3.19 Contractor shall indemnify and hold harmless 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 regarding such additional fee, cost or expense 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 4.2.3

INSERT "or suspected" before "deviations" and INSERT "or suspected" after "observed" each time such words occur in the first sentence.

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, in writing, such nonconforming work”

Subparagraph 4.2.8

Add new Sub-subparagraph as follows:

4.2.8.1 No change in the Work will give rise to an increase in the Contract Sum without a Change Order expressly providing for such increase, and that the Contractor waives any claim for such an increase based upon unjust enrichment, course of dealings or implied or express acceptance.

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 5.2.3

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

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; PROVIDED, however, that Contractor shall make no payment to any subcontractor unless the subcontractor shall execute a waiver of liens in favor of Owner and Contractor reflecting the amount of each such payment. 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 the Commonwealth of Virginia – VPPA, and shall be subject to the provisions contained in Section 000515.

- 5.5.1 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 “and waiver of subrogation” in Subparagraph 6.1.1.

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 the Contractor to plan, direct, perform and coordinate its Work as to cause no delay, hindrance, loss, injury, or similar damage to subcontractors or material suppliers. In the event the Contractor causes any delay, hindrance, loss, injury, or similar damage to subcontractors or material suppliers, the aggrieved subcontractors or material suppliers may pursue recovery of money damages against the Contractor pursuant to Article 15. There shall be no claim asserted against the Owner or the 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 the Contractor prosecutes a claim against the Owner or the Architect for money damages or for an alleged failure to coordinate, expedite or direct the Work, then the Contractor shall indemnify and hold harmless the Owner and the Architect against any and all costs, losses or expenses, including consulting, expert, counsel fees, that the Owner or the 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 6.2.2

INSERT “or suspected” before “apparent” in the first, second, and third sentences.

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.

ADD the following new sentence to the end of Subparagraph 6.2.4:

[Add:] "Contractor agrees to indemnify and hold Owner and Architect harmless for any claims or damages brought by a separate contractor arising out of the actions or omissions of Contractor, its subcontractors or suppliers in performing their work under the Contract Documents.

ARTICLE 7 - CHANGES IN THE WORK

Paragraph 7.1 – General

Subparagraph 7.1.1

INSERT "and applicable law" after the word "Documents" at the end of the sentence.

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 between 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, in writing, 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, verified incremental 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 verified 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 net of all discounts, rebates, savings, and other reductions and 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 not net of all discounts, rebates, savings, and other reductions, 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 - TIME

Paragraph 8.1 – Definitions

Subparagraph 8.1.3

INSERT after “Architect”, the following:

[*Insert:*] “and approved by Owner”

Subparagraph 8.2.2

INSERT “and submission to the Owner of certificates” after “date” in the sentence.

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) days after the occurrence of the event causing the delay. If an extension of the Contract Time for a contractor is granted due to neglect, misconduct or failure to comply with the Contract Documents by another contractor and such delay causes any contractor to miss a Milestone in the Project Schedule, then liquidated damages for delay pursuant to Paragraph 8.4, caused by the delay, shall be applied against Contractor responsible for having caused such extension of the Contract Time. A contractor causing Project delay shall be liable for and reimburse Owner for all costs, including 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:

Contractor recognizes that delays, acceleration or hindrances to the Work may occur. To the fullest extent permitted by law, no claim or litigation for increased costs, charges, expenses or damages of any kind shall be filed by Contractor against Owner, Architect or Owner's Representative (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 (except against a responsible contractor pursuant to subparagraphs 3.3.4 and 6.1.3) shall be an extension of the Contract Time pursuant to this Paragraph 8.3. No additional compensation will be allowed for time extensions (including time extensions based on weather). Should Contractor file any claim or litigation for money damages against Owner, Architect or Owner's Representative (including their employees or agents) contrary to this provision, such contractor shall pay all costs imposed or permitted by law to be recovered, including as allowed indemnification for any costs incurred as to such claim and all fees by consultants, experts, and attorneys, plus 10% interest per annum on all such costs from the date of occurrence of such costs up to the date of payment.

ADD new Paragraph 8.4 as follows:

Paragraph 8.4 – Liquidated Damages for

Delays

8.4.1 Owner and Contractor stipulate that delay by the Contractor in completion would have significant adverse consequences for the Project; that, however, the actual damages to Owner from such delay are uncertain and would be impossible and not susceptible to reasonable determination; and that liquidated damages of such failure by Contractor to perform in a timely manner are a reasonable way and not a penalty to address such adverse consequences. Contractor also stipulates that it shall not challenge, either directly or indirectly, this liquidated damages provision. Owner, therefore, may require Contractor to pay liquidated damages of \$500.00 per day for the Contractor's failure to perform timely in strict accordance with the Contract. **The amount of Liquidated Damages shall be \$500.00 per day, per phase.**

8.4.2 If, during the course of Contractor's performance of the Work, Contractor shall fail to complete the Work, or portions thereof, in accordance with Specific Dates or the Contract Time, Owner may retain the amount of liquidated damages for which Contractor shall be liable to Owner under the Contract Documents, from amounts which become payable or are otherwise certified as payable to Contractor under the Contract Documents.

8.4.3 In the event that the Work must be conducted beyond the normal working hours

specified or if the Project is not completed within the specified duration, Contractor shall indemnify Owner for any costs, damages or payments incurred by Owner, including payments to the Owner's Representative, Architect, consultants, experts, or legal counsel.

If Contractor files any claim or litigation challenging an assessment of liquidated damages, or the daily or total amount of liquidated damages assessed, and does not prevail completely in such challenge, Contractor shall be liable to Owner for all costs incurred by Owner in defending against the challenge, including all fees and costs of the attorneys, experts, architects, and other consultants, and all costs related to the time of the Owner's Representative, Owner's staff and administrators based on the applicable compensation rates.

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 the 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 waivers 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 and in compliance with applicable law.

Contractor hereby agrees that it will defend, indemnify and hold harmless Owner from and against any subcontractor's labor or materials claims, mechanics' lien or any other claim or proceeding filed by any subcontractor by reason of Contractor's failure to pay the Subcontractor any amount owed to such Subcontractor. Although this Project is a public entity project and not subject to the assertion of liens under applicable law, 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 or cloud on title. 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 any cloud or challenging any mechanics' lien claim filed by Contractor or any subcontractor, or in enforcing Contractor's obligations hereunder.

Owner shall retain five percent (5%) of all amounts due Contractor until the Work is substantially complete and the punch list is complete and deemed satisfactory by the Architect and Owner's Representative. The retained percentage will be paid 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 at any time 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 9.3.1.4 as follows:

9.3.1.4 Refer to Division 1 Section “Applications for Payment” for additional requirements regarding applications for payment.

DELETE the second sentence and the word “Payment” from the beginning of the third sentence in

Subparagraph 9.3.2, and SUBSTITUTE in its place the following:

[*Substitute:*] “When an application for payment includes products stored off the project site or stored on the project site but not incorporated in the Project, for which no previous payment has been requested, a complete description of such product shall be attached to the application. Suitable storage which is off the project site shall be a bonded warehouse with the stored products properly tagged and identifiable for the Project. The Owner's written approval shall be obtained before the use of an off-site storage is made. If the size, quantity, and/or type of material or product is such that a bonded warehouse is deemed unsuitable, then, with the Owner's approval, the Contractor may elect to store certain products on his premises, or to repay a subcontractor or supplier for certain material and products which are to remain on and be stored on the subcontractor's or supplier's premises until needed by the project. In such event, the Contractor shall enter into a security agreement with the subcontractor or supplier under which the Contractor shall be granted a security interest in and to all such material and products fabricated and/or to be supplied by the subcontractor or supplier for this Project and stored on the subcontractor's or supplier's premises. All expenses incurred in this agreement be the responsibility of the Contractor. A copy of each and every agreement shall be filed with the Architect with the first application for payment which requests payment for such material or products. In any event, 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 strict 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.
- 9.5.1.11 Failure to submit wage certification as required by the Contract Documents.

9.5.1.12 Failure to submit a Schedule of Values that is acceptable to Architect.

Add a new Sub-subparagraph 9.5.2.1 as follows:

9.5.2.1 The Owner shall not be in breach for withholding payment so long as it does so in good faith based upon a bona fide dispute. The Contractor may not stop work during the pendency of a bona fide dispute. Until the dispute is resolved, the associated sum shall be placed in escrow.

Subparagraph 9.6.7

DELETE Subparagraph 9.6.7 in its entirety.

Paragraph 9.7

INSERT "written" before "notice" (first sentence, fourth line).

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 and utilize the Work for its intended use, and in addition, all requirements of the Contract Documents for Substantial Completion have been fulfilled. Substantial Completion shall not have occurred unless all systems are operational, all systems have been tested and passed inspection, all facility inspections have been conducted and passed, all certifications have been posted, all personnel instruction is complete, all required finishes are in place, and any remaining work will not hamper or impair or compromise Owner operations.

Subparagraph 9.8.2

DELETE the words "prior to final payment." from the third line and, in lieu thereof, SUBSTITUTE 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 9.10.1

INSERT "written" before the word "notice" in the first sentence.

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, unconditional sworn statement from Contractor duly executed and acknowledged showing all subcontractors to be fully paid and similar, final unconditional sworn statements from subcontractors and, when appropriate, from sub-subcontractors.

Subparagraph 9.10.3

INSERT "any" before "Claims" (last word in the sentence).

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 10.2 - Safety of Persons and

Property Subparagraph 10.2.1

INSERT at the beginning of the sentence the following: "In addition to the obligations of the Contractor specified in § 3.4.3, the"

Subparagraph 10.2.5

DELETE "(other than damage or loss insured under property insurance required by the Contract Documents)"

Subparagraph 10.2.8

INSERT "written" before "notice" in the first sentence.

ADD new Subparagraph 10.2.9 as follows:

10.2.9 Contractor shall immediately 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.

Subparagraph 10.3.1

INSERT "written" after "Architect" at the end of the second sentence.

Subparagraph 10.3.3

DELETE entire subparagraph.

ADD a new Subparagraph 10.3.7 as follows:

[Add:] 10.3.7 Unless specifically approved by the Owner or required by the Contract, the Contractor shall not incorporate into the Work any materials containing asbestos or any material known by the industry to be hazardous to the health of building construction workers, maintenance workers, or occupants. If the Contractor becomes aware that a material required by the Contract contains asbestos or other hazardous materials, Contractor shall notify the Owner and the Architect immediately and shall take no further steps to acquire or install any such material without first obtaining Owner approval.

ADD a new paragraph 10.5 as follows:

[Add:] 10.5 COMPLIANCE WITH SAFETY LAWS. All phases of work under this Agreement shall conform to the applicable requirements of the Occupational Safety and Health Act (Public Law 91-956) as adopted by the U.S. Department of Labor and with the provisions of "Rules and Regulations Governing Construction, Demolition, and All Excavation", as adopted by the Safety Codes Commission of the Commonwealth of Virginia, 1966 (Amended 1970) and issued by the

Department of Labor and Industry, P. O. Box 1814, Richmond, Virginia 23214.

ARTICLE 11 - INSURANCE AND BONDS

Paragraph 11.1 – Contractor's Insurance and Bonds

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 Commonwealth of Virginia.

1. The contractor will maintain a general liability policy with \$2,000,000 combined single limits, with \$4,000,000 in aggregate. Coverage is to be on an occurrence basis with an insurer licensed to conduct business in the Commonwealth of Virginia. The general liability insurance shall also include the broad form property damage endorsement, in addition to coverages for explosion, collapse, and underground hazards. The insurer must have an A. M. Best rating of A- or better. The insurer must list the Owner and Architect as an additional insured. The endorsement must be issued by the insurance company. A notation on the certificate of insurance is not sufficient.
2. The contractor will maintain workers' compensation coverage in compliance with the laws of the Commonwealth of Virginia. The coverage must have statutory limits and be with an insurer licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better. As an alternative, it is acceptable for the contractor to be insured by a group self-insurance association that is licensed by the Virginia Bureau of Insurance. The contractor will also carry employers liability insurance with a limit of at least \$100,000 bodily injury by accident/\$500,000 bodily injury by disease policy limit/\$100,000 bodily injury by disease each employee.
3. The contractor will maintain automobile liability insurance with limits of at least \$1,000,000. The coverage is to be written with a symbol "1". The insurer must be licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better.
4. The contractor will maintain professional liability insurance with a limit of at least \$1,000,000. It is preferred that the coverage be on an occurrence basis. If the policy is on a claims made basis, this should be noted. If the contractor has professional liability insurance on a claims made basis, agreement must be made that coverage will be maintained for at least three years beyond the expiration date of the policy in force at the time of this contract. Coverage is to be with a company licensed to conduct business in the Commonwealth of Virginia and have an A. M. Best rating of A- or better. The Owner and Architect should be listed as an additional insured on the policy. The endorsement must be issued by the insurance company. A notation on the certificate of insurance is not sufficient. (NOTE: This is only needed when professional services are being conducted by the contractor. For example if the contractor is providing professional advice or design work, the professional liability coverage should be required.)
5. The contractor will maintain a surety bond in an amount not less than the total amount

payable to the contractor for the terms of this contract. The bond will be issued by a company licensed to issue surety bonds in the Commonwealth of Virginia and has an A. M. Best rating of A- or better.

With all policies listed above, the insurer or agent of the insurer must issue a certificate of insurance to show evidence of coverage. To the extent commercially and reasonably available, all wording limiting the insurer responsibility to notify the Owner and Architect of any cancellation or non-renewal of the coverage must be removed.

Subparagraph 11.1.2

ADD the following new sentence to the end of Subparagraph 11.1.2:

[Add:] Where Owner's and Contractor's/Subcontractor's policies each apply, Contractor's/Subcontractor's policies shall be considered primary.

Subparagraph 11.1.3

ADD "to the extent such a provision is commercially and reasonably available" to the end of the second sentence.

Paragraph 11.3 - Property Insurance

Subparagraph 11.3.1

DELETE Subparagraph 11.3.1 in its entirety, and SUBSTITUTE the following:

[Substitute:] **CONTRACTOR TO PROVIDE BUILDERS RISK POLICY.** The Contractor shall purchase and maintain, from a company or companies lawfully authorized to do business in the Commonwealth of Virginia, property insurance written on a builder's risk "all-risk" or equivalent policy "completed value" form in the amount of the total value for the entire Project at the site on a replacement cost basis. The limit will be the full replacement cost of the building and/or structures being built under this Agreement. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Architect, the Contractor, Subcontractors and Sub-subcontractors in the Project. The City of Staunton, VA will be listed as an insured under this policy to protect any property owned at the construction site. Coverage is to be with a company that has an A. M. Best rating of A- or better. Policies shall be written to include the names of Contractors and Owner "as their interest may appear", and all insurance shall be in effect on or before the date when construction work is to commence. The insurance to be furnished by the Contractor under this subparagraph will include a deductible of One Thousand dollars (\$1,000.00) per occurrence on all perils of loss with the exception of Flood and Earthquake subject to the insurance policy forms and exclusions. The deductible shall be paid by the Contractor, or contractor(s) in proportion to their respective portions of loss, if the loss affects more than

one (1) Contractor or subcontractor.

DELETE the phrase “shall be on an ‘all-risk’ or equivalent policy form and” from Sub-subparagraph

11.3.1.1. ADD the following at the end of Subparagraph 11.3.1.1:

[Add:] The insurance to be provided hereunder shall include coverage for materials and equipment accepted for incorporation into the completed Project and stored on the site of the Work, stored in an off-site location, or in transit. The insurance to be furnished by the Contractor under this paragraph 11.3 will cover only those materials and equipment which will become a permanent part of the completed project and scaffolding, construction forms and temporary structures if their values are chargeable to the project.

DELETE Sub-subparagraphs 11.3.1.2, 11.3.1.3, and 11.3.1.4 in their entirety, and REPLACE them with the following Sub-subparagraphs:

11.3.1.2 Following any loss which the Contractor believes may be covered by the insurance to be provided under this subparagraph 11.3.1, the Contractor shall immediately notify the insurance company and the Owner. The Contractor will report to the insurance company losses on behalf of the Owner. The Contractor shall cooperate with the Owner and the insurer, or its authorized representatives, in their efforts to investigate and settle the claim, including providing any and all requested information, documentation and reports and providing safe access to the site for inspection. Contractors’ failure to provide timely notification of loss to the Owner, or Contractors’ failure to provide requested and adequate information or documentation, shall not prejudice the Owner in any manner whatsoever.

11.3.1.3 The Contractor is responsible for notifying law enforcement or other applicable authorities in the event of a loss and for compiling all pertinent and required information in a timely manner.

11.3.1.4 Following a loss, the Contractor shall immediately take all necessary and reasonable steps to protect the property from further damage or loss.

ADD the following language to the end of Subparagraph 11.3.3:

[Add:] “Owner’s loss of use damages are limited to the amount paid under the Loss of Use policy. Contractor and all subcontractors shall be named as additional insureds on Owner’s Loss of Use policy, to the extent such an endorsement is available.”

DELETE Subparagraph 11.3.7 in its entirety.

Subparagraph 11.3.8

DELETE the words “as fiduciary” whenever they appear.

Subparagraph 11.3.9

DELETE the words “as fiduciary” whenever they appear.

Subparagraph 11.3.10

DELETE the words “as fiduciary”.

ADD new Subparagraphs 11.3.11 and 11.3.12 as follows:

[Add:] 11.3.11 The Owner reserves the right to choose and determine the manner in which any damaged work covered by the insurance provided hereunder shall be replaced or repaired and the extent to which replacement or repair shall be accomplished. In the event the Owner chooses not to replace or repair damaged Work, or chooses to have repairs or replacement accomplished by others, the Contractor(s) shall be paid in full by the Owner for the actual value of all Work accomplished on the affected portion of the damaged facility prior to the time of the loss. The Contractor(s) shall not have any claim or be entitled to any payment, including loss of profit, for the value of lost or uncompleted Work. Nor shall any provision in anyway release the Contractor or the Contractor’s surety from obligations under the Contract to fully complete the undamaged portions of the Project. In the event the Owner chooses to have the repair or replacement of the damaged work performed under this Agreement, said work shall be paid for and accomplished in accordance with the Change Order provisions of this Contract.

[Add:] 11.3.12 The Owner assumes no liability, and the Contractor shall have no claim against Owner, for the amount of loss claimed by the Contractor which exceeds the actual proceeds received from the Insurance provided hereunder. The Contractor shall have no claim against the Owner for any loss caused by perils not covered by the insurance provided by the Contractor hereunder, nor shall the Contractor have any claim against Owner for any loss to Contractor's materials, tools, equipment or personal property not covered by the said insurance. All costs incurred by the Contractor associated with the loss not covered by an insurance loss settlement shall be borne by the Contractor.”

Paragraph 11.4 - Performance Bond and Payment Bond

Subparagraph 11.4.1

DELETE Subparagraph 11.4.1 in its entirety and, in lieu thereof, SUBSTITUTE the following new Subparagraph:

11.4.1

Contractor shall provide bonds in accordance with the provisions of the Contract Documents and the Commonwealth of Virginia – VPPA, 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 Contractor in strict accordance with the plans, specifications and conditions of the Contract. Such bond shall be solely for the protection of 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 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) Each of such bonds required by the Contract Documents shall be executed by one or more surety companies legally authorized to do business in the Commonwealth of Virginia and not otherwise objectionable to Owner. The surety of whom 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 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.

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 and Use and Final Completion 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.

ADD new subparagraphs 12.2.6 and 12.2.7, as follows:

[Add:] 12.2.6 In any case, when in fulfilling the requirements of the Contract Documents and this guarantee or any other guaranty or warranty, the Contractor disturbs any work performed by a separate contractor, Contractor shall restore such work to a condition satisfactory to the Architect and Owner and guarantee such restored work to the same extent as if it was guaranteed under this Agreement. In the event the Work of the Contractor is to be modified by another contractor, either before or after the final inspection, the Contractor shall remain responsible in all respects under this paragraph's warranty and under any other warranties or guarantees, express or implied, applicable to or arising from this Agreement or by law. However, the Contractor shall not be responsible for any defects in material or workmanship introduced by the contractor modifying Contractor's Work. The Contractor and the contractor making the modifications shall each be solely responsible for their own respective work. The contractor modifying the earlier Work shall be responsible for any damage to or defect introduced into the Work by its modification. If Contractor claims that a subsequent contractor has introduced defects of materials and/or workmanship into Contractor's Work, Contractor shall bear the burden of making the claim to demonstrate clearly the nature and extent of such introduced defects and the other contractor's responsibility for those defects.

[Add:] 12.2.7 The warranties of this paragraph shall be in addition to and not in lieu of all other warranties, express or implied, applicable to or arising from this Agreement or by law.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

Paragraph 13.1 – Governing Law

DELETE the second sentence.

Subparagraph 13.3.2

REPLACE “the 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:

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 part 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;

otherwise violates any provision of the Contract Documents; then Owner, upon the occurrence of the events described in clauses .1 through .6 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 Contract 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, whether before, on, or after the date of termination, except as described in paragraph 14.2.4 below. 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, consulting, expert, 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, including 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 the 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.

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 IP

Indemnification

- 14.5 Contractor and each subcontractor shall indemnify defend 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 any claim that any service or goods that the Contractor supplied allegedly infringed, including without limitation any patent, copyright, trademark, service mark, trade secret or other legally-protected proprietary right. Owner shall notify Contractor of any suit or legal proceeding asserting a claim for liabilities described in this paragraph. 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 indemnitees informed as to the progress of the defense. If requested by an indemnitee, Contractor and subcontractors shall afford indemnitees the opportunity to participate in the defense or settlement of any claim at their own cost or expense. 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 indemnitees' 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 and among Contractors, or any Contractor and Owner or Architect, shall be governed by this Article 15.

Subparagraph 15.1.2

DELETE "Substantial" and substitute "Final" before "Completion" and INSERT "or as otherwise allowed by applicable law, whichever is later" after "Work" in the first sentence.

Subparagraph 15.1.3 – Notice of Claims

INSERT "written" before "notice" in the first sentence.

Sub-subparagraph 15.1.4.2

Change "shall" to "may".

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 public body corporate and a political subdivision of the Commonwealth of Virginia, 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 as to payment for the performance of labor or the furnishing of materials exists only under the provisions of the Payment Bond.

Subparagraph 15.2.5

DELETE in the third sentence after “parties” the following: “but subject to mediation, and if the parties fail to resolve their dispute through mediation, to binding dispute resolution.”

Subparagraphs 15.2.6, 15.2.7, 15.2.8

DELETE in their entirety the following: 15.2.6, 15.2.7, and 15.2.8. SUBSTITUTE a new Subparagraph 15.2.6 as follows:

[*Substitute:*] 15.2.6 Nothing in this Article 15 shall prohibit Owner from seeking equitable relief in a court of appropriate jurisdiction referenced in paragraph 15.3, without a decision of the initial decision maker, in an emergent circumstance where the initial decision maker cannot provide relief to the Owner.

Paragraph 15.3

DELETE in its entirety the provisions of paragraph 15.3 and SUBSTITUTE the following

provisions: Paragraph **15.3 Forum Selection; Waiver of Jury Trial**

Binding dispute resolution shall be in a court of competent jurisdiction. All actions, suits, or proceedings of any nature under the Contract or related in any way to the Project or the actions or omissions of the Contractor, Owner, or Architect as between or among any of them shall be filed and maintained solely in the Circuit Courts of the City of Staunton, Virginia, or, if federal jurisdiction exists, in the United States District Court for the Western District of Virginia, at Harrisonburg. If any action suit or proceeding is brought by the Contractor solely against the

Architect, the Architect may elect to require the dispute to be the subject of mediation and, absent resolution through mediation may then elect to require the dispute to be the subject of and decided by arbitration, pursuant to the rules of the American Arbitration Association; however, neither the Architect nor the Contractor, as a condition to the Architect electing the foregoing, shall have and they each expressly waive the right to assert at any time under any circumstances any third-party claim against or to join the Owner in such proceedings.

15.3.1 Contractor, Owner, and Architect waive any and all rights to trial by jury.

15.3.2 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, consulting fees, travel expenses, compensation expenses of staff and all other attributable costs.

Paragraph 15.4

DELETE paragraph 15.4 in its entirety, and SUBSTITUTE the following:

[Substitute:] 15.4 REQUIRED STATE LAW PROVISION REGARDING CONTRACTOR CLAIMS AGAINST

OWNER. Contractual claims against the Owner, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment. However, written notice of the Contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. Timely submission of the claim to the Initial Decision Maker shall constitute compliance with the foregoing sentence. Notwithstanding any other provision herein, the Contractor may not proceed to litigation against the Owner except in accordance with the provisions of this Article 15, and, in addition, without submitting its claim against the Owner to the Clerk of the Works, as the designee of the Owner for consideration and evaluation pursuant to the provisions of Virginia Code § 2.2-4363(C), which are expressly incorporated herein by reference and made part hereof. Contractor may not institute legal action as provided in § 2.2-4364, prior to receipt of the Clerk of the Works decision on the claim, unless the Clerk of the Works fails to render such decision within the time provided by § 2.2-4363(C). A failure of the Clerk of the Works to render a final decision within the time provided shall be deemed a final decision denying the claim by the City of Staunton. The decision of the Clerk of the Works shall be final and conclusive unless the Contractor appeals within six months of the date of the final decision on the claim by the Clerk of the Works by invoking by instituting legal action as provided in § 2.2-4364."

ADD new Paragraph 15.5 as follows:

15.5 - Scheduling and Completion

It is the intention of the parties through these Contract Documents that all claims between Contractors arising from or related to coordination and scheduling of the Work and any delays, disruptions, or interferences arising from or related to the actions of Contractors, shall be resolved between or among Contractors. Specifically, by execution of the Agreement, Contractor agrees to the following:

- .1 Owner and Architect and their representatives are not responsible for delays arising from or related to any act or omission of any Contractor. Owner and Architect are not responsible for any costs or damages arising from or related to a Contractor's coordination and scheduling of its Work. Owner and Architect are not liable for any costs or damages suffered or claimed by a Contractor arising from or related to any Contractor's coordination of its Work. Contractor hereby waives and releases and shall indemnify defend and hold harmless Owner and Architect from any liability and damages arising from or related to coordination by a Contractor of the Work, or coordination of the Work between or among Contractors, including their subcontractors and suppliers.
- .2 Architect and Owner and their representatives shall not be liable to a Contractor for any increased costs or damages for defective work, interference, or delays arising from or related to any conflict between or among Contractors, their subcontractors and suppliers. Neither Owner nor Architect shall be joined as a party to any disputes or actions between or among Contractors or their subcontractors and suppliers concerning such additional expense or damage. Contractor's exclusive remedy in this regard shall be against any other Contractors involved in the dispute. Should any Contractor attempt to join Owner or Architect in any proceeding arising from any Claim between Contractors, including its subcontractors and suppliers, Contractor attempting to join Owner and Architect shall be liable to Owner and Architect for all of Owner's and Architect's costs arising from or related to such claims, including without limitation, seeking to have 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.
- .3 It is agreed by all parties that disputes or actions between Contractors concerning any additional expense or damage herein mentioned above shall not delay completion of the Work, which shall be continued by the parties pending final resolution of a claim, including without limitation, judicial proceedings. All final construction decisions of the Lead Prime Contractor, regarding scheduling and coordination of the Work, whether rendered orally or in writing, shall be observed and followed fully.
- .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 shall raise Contractor and other Contractors to the status of third party beneficiaries in connection with the coordination and scheduling of the Project and related claims between or among Contractors, and for no other purpose. Each Contractor hereby waives privity of Contract defenses as to other Contractors, and any assertion that Owner or Architect is vicariously or otherwise responsible for the acts and omissions of other Contractors. Each Contractor agrees that the other

Contractors have the right to file claims and litigation against Contractor in the event Contractor is alleged to have caused damage to another Contractor by reason of delay, disruption, interference, or lack of coordination, among other reasons, as more fully described in the Contract Documents.

SECTION 01 1000 - SUMMARY

PART 1 GENERAL

1.1 PROJECT

- A. Project Name: 18861 City of Staunton Park Facilities Improvements
 - 1. Gypsy Hill Park
 - 2. Montgomery Hall Park
- B. Architect/Engineer's Name: Thompson & Litton, 726 Auburn Avenue, Radford, Virginia 24141.
 - 1. 16472 Gypsy Hill Park Bathroom Renovation

The Project consists of the renovation of two restrooms and new construction of one restroom facility.
 - 2. 17678 Montgomery Hall Park Restroom Renovation and Pool House Addition

The Project consists of the renovation of two restrooms and new construction of one restroom facility addition at the pool house .
 - 3. 17679 Gypsy Hill Park Pump House Renovation

The Project consists of the removal of a previous addition to the original Pump House and the construction of a new addition with new toilet facilities and office. Project includes reinforcement of structural floor joists and floor repair.

1.2 CONTRACT DESCRIPTION

- A. Contract Type: A single prime contract based on a Stipulated Price as described in Document 00 5213 - Standard Form of Agreement Between Owner & Contractor.

1.3 DESCRIPTION OF ALTERATIONS WORK

- A. Scope of demolition and removal work is indicated on drawings and specified in Section 02 4100.
- B. Scope of alterations work is indicated on drawings.

1.4 OWNER OCCUPANCY

- A. Owner intends to occupy the Project upon Substantial Completion.
- B. Cooperate with Owner to minimize conflict and to facilitate Owner's operations.
- C. Schedule the Work to accommodate Owner occupancy.

1.5 CONTRACTOR USE OF SITE AND PREMISES

- A. Construction Operations: Limited to areas noted on Drawings.

1. Locate and conduct construction activities in ways that will limit disturbance to site.
- B. Arrange use of site and premises to allow:
 1. Use of site and premises by the public.
- C. Provide access to and from site as required by law and by Owner:
 1. Do not obstruct roadways, sidewalks, or other public ways without permit.
- D. Time Restrictions:
 1. Construction may take place Monday - Friday, 7:00 am - 7:00 pm..
- E. Utility Outages and Shutdown:
 1. Limit shutdown of utility services to TBD hours at a time, arranged at least 24 hours in advance with Owner.
 2. Prevent accidental disruption of utility services to other facilities.

1.6 WORK SEQUENCE

- A. 16472 Gypsy Hill Park Restroom Renovations.
 1. Construct Work in stages during the construction period:
 - a. Stage 1: Pool Restrooms.
 - b. Stage 2: Concessions Restroom.
 - c. Stage 3: North Building may be constructed during both Stages 1 and 2.
- B. 17678 Montgomery Hall Park Restroom Renovation and Pool House Addition
 1. Construct Work in stages during the construction period:
 - a. Stage 1: Pool Restrooms and Addition and Restroom 2.
 - b. Stage 2: Restroom 1.
- C. Coordinate construction schedule and operations with Owner.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

SECTION 01 3000 - ADMINISTRATIVE REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. General administrative requirements.
- B. Pre-construction conference.
- C. Progress meetings.
- D. Construction progress schedule.
- E. Contractor's daily reports.
- F. Submittals for review, information, and project closeout.
- G. Requests for Interpretation (RFI) procedures.
- H. Submittal procedures.

1.2 RELATED REQUIREMENTS

- A. Section 00 7200 - General Conditions: Dates for applications for payment.
- B. Section 00 7300 - Supplementary Conditions: Duties of the Construction Manager.
- C. Section 01 1000 - Summary
- D. Section 01 7000 - Execution and Closeout Requirements: Additional coordination requirements.
- E. Section 01 7800 - Closeout Submittals: Project record documents; operation and maintenance data; warranties and bonds.

1.3 GENERAL ADMINISTRATIVE REQUIREMENTS

- A. Comply with requirements of Section 01 7000 - Execution and Closeout Requirements for coordination of execution of administrative tasks with timing of construction activities.
- B. Make the following types of submittals to Architect/Engineer:
 - 1. Requests for Interpretation (RFI).
 - 2. Requests for substitution.
 - 3. Shop drawings, product data, and samples.
 - 4. Test and inspection reports.
 - 5. Design data.
 - 6. Manufacturer's instructions and field reports.

7. Applications for payment and change order requests.
8. Progress schedules.
9. Coordination drawings.
10. Correction Punch List and Final Correction Punch List for Substantial Completion.
11. Closeout submittals.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.1 PRE-CONSTRUCTION CONFERENCE

- A. Schedule meeting after Notice of Award.
- B. Attendance Required:
 1. Owner.
 2. Architect/Engineer.
 3. Contractor.
- C. Agenda:
 1. Execution of Owner-Contractor Agreement.
 2. Submission of executed bonds and insurance certificates.
 3. Distribution of Contract Documents.
 4. Submission of list of subcontractors, list of products, schedule of values, and progress schedule.
 5. Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal request, Change Orders, and Contract closeout procedures.
 6. Scheduling.
- D. Record minutes and distribute copies within five days after meeting to participants, with one copy to Architect/Engineer, Owner, participants, and those affected by decisions made.

3.2 PROGRESS MEETINGS

- A. Schedule and administer meetings throughout progress of the work at maximum bi-monthly intervals.
- B. Attendance Required:
 1. Contractor.

2. Owner.
 3. Architect/Engineer.
 4. Contractor's superintendent.
- C. Agenda:
1. Review minutes of previous meetings.
 2. Review of work progress.
 3. Field observations, problems, and decisions.
 4. Identification of problems that impede, or will impede, planned progress.
 5. Review of submittals schedule and status of submittals.
 6. Maintenance of progress schedule.
 7. Corrective measures to regain projected schedules.
 8. Planned progress during succeeding work period.
 9. Maintenance of quality and work standards.
 10. Effect of proposed changes on progress schedule and coordination.
 11. Other business relating to work.
- D. Record minutes and distribute copies within five days after meeting to participants, with two copies to Architect/Engineer, Owner, participants, and those affected by decisions made.

3.3 CONSTRUCTION PROGRESS SCHEDULE

- A. Within 10 days after date of the Agreement, submit preliminary schedule defining planned operations for the first 60 days of work, with a general outline for remainder of work.
- B. If preliminary schedule requires revision after review, submit revised schedule within 10 days.
- C. Submit updated schedule with each Application for Payment.

3.4 DAILY CONSTRUCTION REPORTS

- A. Include only factual information. Do not include personal remarks or opinions regarding operations and/or personnel. Daily Construction Reports are to be distributed to the Owner and the Architect on a daily basis.

3.5 REQUESTS FOR INTERPRETATION (RFI)

- A. Definition: A request seeking one of the following:
 1. An interpretation, amplification, or clarification of some requirement of Contract Documents arising from inability to determine from them the exact material, process, or

system to be installed; or when the elements of construction are required to occupy the same space (interference); or when an item of work is described differently at more than one place in Contract Documents.

- B. Preparation: Prepare an RFI immediately upon discovery of a need for interpretation of Contract Documents. Failure to submit a RFI in a timely manner is not a legitimate cause for claiming additional costs or delays in execution of the work.
 - 1. Prepare a separate RFI for each specific item.
 - a. Review, coordinate, and comment on requests originating with subcontractors and/or materials suppliers.
- C. Reason for the RFI: Prior to initiation of an RFI, carefully study all Contract Documents to confirm that information sufficient for their interpretation is definitely not included.
 - 1. Include in each request Contractor's signature attesting to good faith effort to determine from Contract Documents information requiring interpretation.
- D. Attachments: Include sketches, coordination drawings, descriptions, photos, submittals, and other information necessary to substantiate the reason for the request.

3.6 SUBMITTALS FOR REVIEW

- A. When the following are specified in individual sections, submit them for review:
 - 1. Product data.
 - 2. Shop drawings.
 - 3. Samples for selection.
 - 4. Samples for verification.
- B. Submit to Architect/Engineer for review for the limited purpose of checking for compliance with information given and the design concept expressed in Contract Documents.
- C. Samples will be reviewed for aesthetic, color, or finish selection.
- D. After review, provide copies and distribute in accordance with SUBMITTAL PROCEDURES article below and for record documents purposes described in Section 01 7800 - Closeout Submittals.

3.7 SUBMITTALS FOR INFORMATION

- A. When the following are specified in individual sections, submit them for information:
 - 1. Design data.
 - 2. Certificates.
 - 3. Test reports.

4. Inspection reports.
 5. Manufacturer's instructions.
 6. Manufacturer's field reports.
 7. Other types indicated.
- B. Submit for Architect/Engineer's knowledge as contract administrator or for Owner.

3.8 SUBMITTALS FOR PROJECT CLOSEOUT

- A. Submit Correction Punch List for Substantial Completion.
- B. Submit Final Correction Punch List for Substantial Completion.
- C. When the following are specified in individual sections, submit them at project closeout in compliance with requirements of Section 01 7800 - Closeout Submittals:
1. Project record documents.
 2. Operation and maintenance data.
 3. Warranties.
 4. Bonds.
 5. Other types as indicated.
- D. Submit for Owner's benefit during and after project completion.

3.9 SUBMITTAL PROCEDURES

- A. General Requirements:
1. Use a separate transmittal for each item.
 2. Submit separate packages of submittals for review and submittals for information, when included in the same specification section.
 3. Sequentially identify each item. For revised submittals use original number and a sequential numerical suffix.
 4. Identify: Project; Contractor; subcontractor or supplier; pertinent drawing and detail number; and specification section number and article/paragraph, as appropriate on each copy.
 5. Apply Contractor's stamp, signed or initialed certifying that review, approval, verification of products required, field dimensions, adjacent construction work, and coordination of information is in accordance with the requirements of the work and Contract Documents.

END OF SECTION

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SECTION 01 3200 - CONSTRUCTION PROGRESS DOCUMENTATION

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. The Contract Documents, including but not limited to, the Drawings and individual Specification Sections and Bid Milestone Schedule, apply to this Section.

1.2 SUMMARY

- A. Section includes administrative and procedural requirements to plan, schedule and document the progress of construction during the performance of the Work, including the following:
 - 1. Critical Path Method (CPM) schedule and reports.
 - 2. Material location reports.
 - 3. Field condition reports.
 - 4. Special reports.
- B. Related Sections:
 - 1. Section 011200 – Contract Summary of Work, for preparing a combined CPM Schedule.
 - 2. Section 013300 – Submittal Procedure, for submitting schedules and reports.
 - 3. Section 014000 – Quality and Code Requirements, for submitting a schedule of tests and inspections.

1.3 DEFINITIONS

- A. Project: Work at the Site carried out pursuant to one or more Contracts.
- B. Activity: A discrete part of the Contract that can be identified for planning, scheduling, monitoring, and controlling the Project. Activities included in a CPM schedule consume time and resources.
 - 1. Critical Activity: An activity on the critical path that has no total float.
 - 2. Predecessor Activity: An activity that precedes another activity in the network.
 - 3. Successor Activity: An activity that follows another activity in the network.
- C. Bid Milestone Schedule: Interim milestones, included in the Contract Documents, which the Contractor utilizes to formulate the Baseline Schedule.
- D. Baseline Schedule: Initial schedule, prepared by the Contractor, to complete the Work of the Contract in accordance with the Contract duration and starting point to which schedule updates are compared.

- E. CPM: Critical Path Method is a scheduling method used to plan and schedule construction projects where activities are arranged based on activity relationships creating a time scaled network diagram.
- F. PDM: Precedence Diagram Method follows the standard CPM calculations and allows for special logic relationships creating an interdependent relationship throughout the network.
- G. Critical Path: The longest connected chain of interdependent activities through the network schedule that establishes the minimum overall Project duration and contains no total float.
- H. Data Date: The date when the status of the CPM schedule is determined, showing the calendar start date for the update period.
- I. Float: The measure of leeway in starting and completing an activity.
 - 1. Float time is not for the exclusive use or benefit of either the Owner or Contractor, but is a jointly owned, expiring Project resource available to both parties as needed to meet schedule milestones and Substantial Completion date.
 - 2. Free float is the amount of time an activity can be delayed without adversely affecting the early start of the successor activity.
 - 3. Total float is the measure of leeway in starting or completing an activity without adversely affecting the planned Substantial Completion date.

1.4 INFORMATIONAL SUBMITTALS

- A. Format for Submittals: Submit required submittals in both electronic (PDF) file format and as electronic backup file in native software format.
- B. CPM Schedule: Schedule, of size required to display entire schedule for entire construction period.
 - 1. Submit a working electronic copy of schedule, using software indicated, and labeled to comply with requirements for submittals. Include type of schedule (baseline or updated) and date on label.
- C. CPM Reports: Concurrent with CPM schedule, submit each of the following reports. Format for each activity in reports shall contain; activity ID number, activity description, original duration, remaining duration, actual duration, early and late start and finish dates and total float in calendar days.
 - 1. Activity Report: List of all activities sorted by early or actual start date in each phase, area and level following the physical divisions of the Work.
 - 2. Short Term Activity Report: Lists all activities occurring from the update data date in a two month forward and one month back window.
 - 3. Logic Report: List of preceding and succeeding activities for all activities, sorted in ascending order by early or actual start date. Include activity ID number and float path(s).

4. Total Float Report: Provide a cumulative list of total float from each update period with comments associated to any and all variances.
 5. Procurement Report: List all procurement activities sorted in order of the item being procured.
 6. Narrative Report: The project scheduler shall describe the nature of the submission, interpretation of calculations, issues affecting progress and a milestone analysis comparing progress against the baseline and update schedules.
- D. Material Location Reports: Submit at monthly intervals.
- E. Field Condition Reports: Submit at time of discovery of differing conditions.
- F. Special Reports: Submit at time of unusual event.
- G. Qualification Data: For project scheduler.

1.5 QUALITY ASSURANCE

- A. Project Scheduler Qualifications: An experienced specialist in CPM scheduling and reporting, with capability of producing CPM reports and diagrams within timeframes requested by the Owner. The project scheduler shall have or be able to obtain certification as a Planning and Scheduling Professional (PSP) or have a minimum of five years of demonstrated experience scheduling large capital projects.
- B. Prescheduling Conference: The Owner may conduct conference at the Project site to comply with requirements in Section 013100 - Project Management and Coordination. Review methods and procedures related to the Baseline Schedule and the CPM schedule, including, but not limited to, the following:
1. Review software limitations and content and format for reports.
 2. Verify availability of qualified personnel needed to develop and update schedule.
 3. Discuss coordination, including phasing, work stages, area separations, interim milestones and Beneficial Occupancy.
 4. Review delivery dates for Owner-furnished products.
 5. Review schedule for work of Owner's separate contracts.
 6. Review time required for review of submittals and resubmittals.
 7. Review requirements for tests and inspections by independent testing and inspecting agencies.
 8. Review time required for completion and startup procedures.
 9. Review and finalize list of construction activities to be included in schedule.
 10. Review submittal requirements and procedures.

11. Review procedures for updating schedule.

1.6 COORDINATION

- A. Coordinate preparation and processing of CPM schedules and reports with the performance of the Work and with CPM scheduling and reporting of separate Contractors.
 1. Coordinate new Baseline Schedules and CPM schedule updates with separate Contractor's when additional Contracts are executed during the entire duration of the Project.
- B. Coordinate CPM schedule with the Contractor's Submission Schedule, progress reports, and other required schedules and reports.
 1. Coordinate each construction activity in the network with other activities and schedule them in proper sequence.

PART 2 - PRODUCTS

2.1 CRITICAL PATH METHOD SCHEDULE, GENERAL

- A. Bid Milestone Schedule: The Owner shall provide a Bid Milestone Schedule, which is attached to this section as a template for the Baseline Schedule. Nothing in the Bid Milestone Schedule, Baseline Schedule or CPM schedule shall preclude the Contractor from advancing the Work of the Contract.
 1. Include milestones indicated in the Contract Documents in Baseline Schedule, including, but not limited to, the Notice to Proceed, interim milestones, Substantial Completion, and Contract close-out.
 2. Substantial Completion date shall not be changed by submission of a schedule that shows an early completion date, unless approved by the Owner.
 3. No time for weather will be apportioned for foreseeable occurrences in a specific regional area. The Contractor shall be responsible to determine reasonable averages and make allowances in the performance of the Work.
- B. Activities: Treat each numbered activity as a consumable resource for each principal element of the Work. Comply with the following:
 1. Activity Duration: Define activities so no activity is longer than 15 days, unless specifically allowed by the Owner.
 2. Procurement Activities: Include procurement process activities for long lead items and major items, requiring a cycle of more than 60 days, as separate activities in schedule. Procurement cycle activities include, but are not limited to, submittals, approvals, purchasing, fabrication, and delivery.
 3. Submittal Review Time: Include review and resubmittal times indicated in Section 013300 - Submittal Procedures in schedule. Coordinate submittal review times in the CPM schedule with dates entered in the Contractor's Submission Schedule.

4. Startup and Testing Time: Include not less than 15 days for startup and testing.
 5. Substantial Completion: Indicate completion on the date established for Substantial Completion, and allow time for the Owner's administrative procedures necessary to execute the Notice of Substantial Completion (NOSC).
 6. Incomplete Work items and Contract Closeout: Include not more than 60 days for incomplete Work items and Contract Closeout Requirements.
- C. Constraints: Include constraints and work restrictions indicated in the Contract Documents, or approved by the Owner prior to use and show how date constraints affect the sequence of the Work.
1. Construction Areas: Identify each major area of construction for each major portion of the Work. Indicate where each construction activity within a major area must be sequenced or integrated with other construction activities.
- D. Upcoming Work Summary: Prepare summary report indicating activities scheduled to occur or commence prior to submittal of next schedule update. Summarize the following issues:
1. Unresolved issues.
 2. Unanswered RFIs.
 3. Rejected or unreturned submittals.
 4. Notations on returned submittals.
- E. Recovery CPM Schedule: When periodic update indicates the Work is 15 or more calendar days behind the current approved CPM schedule, submit a separate recovery CPM schedule indicating means by which the Contractor intends to regain compliance with the CPM schedule. Indicate changes to working hours, working days, crew sizes, and equipment required achieving compliance, and dating by which recovery will be accomplished, subject to Owner's approval.
- F. Computer Scheduling Software: Prepare CPM schedules using current version of a program that has been developed specifically to manage CPM schedules and interface with the Owner's electronic file of the Bid Milestone Schedule.
1. Utilize Primavera P6 or P3 Primavera Project Planner operating system.

2.2 CRITICAL PATH METHOD SCHEDULE (CPM SCHEDULE)

- A. Baseline Schedule: Prepare schedule using a time-scaled PDM network diagram representing the Work of the Contract. Total float time shall be equal to or greater than zero in the Baseline Schedule.
1. Submit Baseline Schedule within 15 days of the date established for the Notice to Proceed. Outline significant construction activities for the first 90 days of construction. Include skeleton diagram for the remainder of the Work based on indicated activities.

2. Develop network diagram in sufficient time to submit Baseline Schedule so it can be accepted for use no later than 30 days after date established for the Notice to Proceed.
 - a. Failure to include any work item required for the performance of the Work shall not excuse the Contractor from completing the Work of the Contract within applicable completion dates, regardless of the Owner's approval of the schedule.
- B. CPM Schedule: Prepare contemporaneous schedules using a time-scaled PDM network for sequencing the Work and showing the progress of the Work.
 1. Establish procedures for monitoring and updating the CPM schedule and for reporting progress. Coordinate procedures with the progress meeting and payment request date.
 2. Coordinate the Work occurring concurrently through the integration of other Contractors Baseline Schedules into the CPM schedule.
 3. Conduct educational workshops to train and inform the Contractor's key Project personnel, including subcontractors' personnel, in proper methods of providing data and using CPM schedule information.
 4. Use "one workday" as the unit of time for individual activities. Indicate nonworking days and holidays incorporated into the schedule in order to correlate with Contract durations.
- C. CPM Schedule Preparation: Prepare a list of all activities required to complete the Work of the Contract. At minimum, each individual specification section, including General Requirement sections, as indicated in the Project Manual, shall be listed as an activity.
 1. Activities ID: Provide a unique identifier to each activity. No activity ID shall be recycled or reused.
 2. Activities: Indicate the estimated time duration, sequence requirements, and relationship of each activity in relation to other activities. Include estimated time frames for the following activities:
 - a. Preparation and processing of submittals.
 - b. Mobilization and demobilization.
 - c. Purchase of materials.
 - d. Delivery.
 - e. Fabrication.
 - f. Utility interruptions.
 - g. Installation.
 - h. Work by Owner that may affect or be affected by the Contractor's activities.
 - i. Testing and commissioning.

- j. Incomplete Work items and Contract closeout.
3. Actual Activity Dates: Once an activity has been assigned an actual date of occurrence, the status of that activity shall not change. Any change to actual dates must be accompanied with supporting data and approved by the Owner. No actual start date shall occur ahead of the data date.
 4. Critical Path Activities: Identify critical path activities, including those for interim completion dates. Scheduled start and completion dates shall be consistent with the Bid Milestone Schedule dates.
 5. Processing: Process data to produce output data status on a computer-drawn, PDM network. Revise data, reorganize activity sequences, and reproduce as often as necessary to produce the CPM schedule within the limitations of the Contract duration.
 6. Calculations: The schedule network shall be calculated allowing activities to retain their original logic. Progress override shall not be used when calculating the network status.
 7. Logic: Leads and lags will not be used when the creation of an activity will perform the same function. Lag durations contained in the schedule shall not have negative value. Lead and lag durations shall not exceed the durations of the activity they are assigned.
 - a. There shall be only two open ended activities; (1) Notice to Proceed, with no predecessor logic, and (2) Final Payment, with no successor logic. All intermediate activity logic shall be connected.
 - b. Out of sequence activities that have progressed before all preceding logic will be allowed only on a case by case basis, as approved by the Owner. The Contractor shall propose logic corrections to eliminate all out of sequence progress and correct out of sequence progress that continues for more than two update cycles by logic revisions, as approved by the Owner.
 8. Float: The Owner shall reject the schedule and schedule updates for the use of float suppression techniques such as preferential sequencing, special lead lags logic constraints, zero total or zero free float constraints, extended activity times, or imposing constraint dates other than what is required by the Contract.
 - a. The use of resource leveling used for the purpose of artificially adjusting activity durations to consume float and influence the critical path is prohibited.
 - b. A schedule showing work completing in less time than the Contract duration and accepted by the Owner, will be considered to have float.
 - c. Any float generated during the performance of the Work, due to efficiencies of the Owner or any Contractor is not for sole use of the party generating the float.
 - d. Negative float will not be a basis for requesting time extensions and will not be construed as a means of acceleration or schedule extension.

9. Format: Follow the applicable individual specification sections of the Work as the bases for the content of the CPM schedule. Organize the CPM schedule to provide the necessary detail for each area, level, quadrant and section as needed in the performance of the Work.
- D. Changes in the Work: For each proposed change and concurrent with its submission, prepare a time-impact analysis using a network fragment to demonstrate the effect of the proposed change on the overall CPM schedule.
- E. Schedule Updating: Concurrent with making revisions to schedule, prepare tabulated reports showing the following:
 1. Identification of activities that have changed, including the reason each adjustment was necessary.
 2. Changes in early and late finish dates.
 3. Changes in activity durations in workdays.
 4. Changes in the critical path.
 5. Changes in total float or slack time.
 6. Changes in the duration for Substantial Completion.

2.3 REPORTS

- A. Material Location Reports: At monthly intervals, prepare and submit a comprehensive list of materials delivered to and stored at Project site. List shall be cumulative, showing materials previously reported plus items recently delivered. Include with list a statement of progress on and delivery dates for materials or items of equipment fabricated or stored away from Project site.
- B. Field Condition Reports: Immediately on discovery of a difference between field conditions and the Contract Documents, prepare and submit a detailed report. Submit with a Request for Information. Include a detailed description of the differing conditions, together with recommendations for changing the Contract Documents.

2.4 SPECIAL REPORTS

- A. General: Submit special reports directly to Owner within one day of an occurrence. Distribute copies of report to parties affected by the occurrence.
- B. Reporting Unusual Events: When an event of an unusual and significant nature occurs at Project site, whether or not related directly to the Work, prepare and submit a special report. List chain of events, persons participating, and 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 3 - EXECUTION

3.1 CPM SCHEDULE

- A. Project Scheduler: Engage a consultant or person skilled in construction planning and scheduling to provide planning, scheduling, evaluation, and reporting services using CPM scheduling.
 - 1. In-House Option: The Owner may waive the requirement to retain a consultant if Contractor employs skilled personnel with experience in CPM scheduling and reporting techniques. Submit qualifications.
 - 2. Meetings: Project scheduler shall attend all meetings related to the Project progress, alleged delays, and time impact.
- B. CPM Schedule and CPM Reports Updating: Prior to each scheduled progress meeting, update schedule to reflect actual construction progress and activities. Issue schedule and reports one week before each regularly scheduled progress meeting.
 - 1. Revise schedule immediately after each meeting or other activity where revisions have been recognized or made. Issue updated schedule concurrently with the CPM reports of each such meeting. As a minimum, schedule update submissions shall occur monthly and within 30 days of the schedule Data Date.
 - 2. Include CPM reports with updated schedule that indicates every change, including, but not limited to, changes in logic, durations, actual starts and finishes, and activity durations.
 - 3. As the Work progresses, indicate final remaining duration for each activity.
- C. Distribution: Submit one electronic copy, in format specified, to the Owner and distribute copies of approved schedule and reports to the Owner, Design Professional, separate contractors, testing and inspecting agencies, and other parties identified by the Owner with a need-to-know schedule responsibility.
 - 1. Post copies in Project meeting rooms and temporary field offices.
 - 2. When revisions are made, distribute updated schedules and reports to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in performance of construction activities.

END OF SECTION

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SECTION 01 4000 - QUALITY REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Submittals.
- B. Quality assurance.
- C. Testing and inspection agencies and services.
- D. Contractor's construction-related professional design services.
- E. Contractor's design-related professional design services.
- F. Control of installation.
- G. Defect Assessment.

1.2 RELATED REQUIREMENTS

- A. Document 00 7200 - General Conditions: Inspections and approvals required by public authorities.
- B. Section 01 3000 - Administrative Requirements: Submittal procedures.

1.3 CONTRACTOR'S CONSTRUCTION-RELATED PROFESSIONAL DESIGN SERVICES

- A. Coordination: Contractor's professional design services are subject to requirements of project's Conditions for Construction Contract.
- B. Provide such engineering design services as may be necessary to plan and safely conduct certain construction operations, pertaining to, but not limited to the following:
 - 1. Temporary sheeting, shoring, or supports.
 - 2. Temporary scaffolding.
 - 3. Temporary bracing.

1.4 SUBMITTALS

- A. See Section 01 3000 - Administrative Requirements, for submittal procedures.
- B. Test Reports: After each test/inspection, promptly submit two copies of report to Architect/Engineer and to Contractor.
 - 1. Include:
 - a. Date issued.
 - b. Project title and number.

- c. Name of inspector.
- d. Date and time of sampling or inspection.
- e. Identification of product and specifications section.
- f. Location in the Project.
- g. Type of test/inspection.
- h. Date of test/inspection.
- i. Results of test/inspection.
- j. Compliance with Contract Documents.
- k. When requested by Architect/Engineer, provide interpretation of results.

1.5 QUALITY ASSURANCE

- A. Testing Agency Qualifications:
 - 1. Prior to start of work, submit agency name, address, and telephone number, and names of full time registered Engineer and responsible officer.
- B. Designer Qualifications: Where professional engineering design services and design data submittals are specifically required of Contractor by Contract Documents, provide services of a Professional Engineer experienced in design of this type of work and licensed in the State in which the Project is located.

1.6 TESTING AND INSPECTION AGENCIES AND SERVICES

- A. Owner will employ services of an independent testing agency to perform certain specified testing; payment for cost of services will be derived from allowance specified in Section 01 2100; see Section 01 2100 and applicable sections for description of services included in allowance.
- B. Contractor shall employ and pay for services of an independent testing agency to perform other specified testing.
- C. Employment of agency in no way relieves Contractor of obligation to perform Work in accordance with requirements of Contract Documents.
- D. Contractor Employed Agency:

PART 3 EXECUTION

2.1 CONTROL OF INSTALLATION

- A. Monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce work of specified quality.
- B. Comply with manufacturers' instructions, including each step in sequence.

- C. Should manufacturers' instructions conflict with Contract Documents, request clarification from Architect/Engineer before proceeding.
- D. Comply with specified standards as minimum quality for the work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- E. Have work performed by persons qualified to produce required and specified quality.
- F. Verify that field measurements are as indicated on shop drawings or as instructed by the manufacturer.
- G. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, and disfigurement.

2.2 TESTING AND INSPECTION

A. Testing Agency Duties:

- 1. Provide qualified personnel at site. Cooperate with Architect/Engineer and Contractor in performance of services.
- 2. Perform specified sampling and testing of products in accordance with specified standards.
- 3. Ascertain compliance of materials and mixes with requirements of Contract Documents.
- 4. Promptly notify Architect/Engineer and Contractor of observed irregularities or non-compliance of Work or products.
- 5. Perform additional tests and inspections required by Architect/Engineer.
- 6. Submit reports of all tests/inspections specified.

B. Limits on Testing/Inspection Agency Authority:

- 1. Agency may not release, revoke, alter, or enlarge on requirements of Contract Documents.
- 2. Agency may not approve or accept any portion of the Work.
- 3. Agency may not assume any duties of Contractor.
- 4. Agency has no authority to stop the Work.

C. Contractor Responsibilities:

- 1. Deliver to agency at designated location, adequate samples of materials proposed to be used that require testing, along with proposed mix designs.
- 2. Cooperate with laboratory personnel, and provide access to the Work and to manufacturers' facilities.

3. Provide incidental labor and facilities:
 - a. To provide access to Work to be tested/inspected.
 - b. To obtain and handle samples at the site or at source of Products to be tested/inspected.
 - c. To facilitate tests/inspections.
 - d. To provide storage and curing of test samples.
4. Notify Architect/Engineer and laboratory 24 hours prior to expected time for operations requiring testing/inspection services.
5. Employ services of an independent qualified testing laboratory and pay for additional samples, tests, and inspections required by Contractor beyond specified requirements.
6. Arrange with Owner's agency and pay for additional samples, tests, and inspections required by Contractor beyond specified requirements.
- D. Re-testing required because of non-compliance with specified requirements shall be performed by the same agency on instructions by Architect/Engineer.
- E. Re-testing required because of non-compliance with specified requirements shall be paid for by Contractor.

2.3 DEFECT ASSESSMENT

- A. Replace Work or portions of the Work not complying with specified requirements.

END OF SECTION

SECTION 01 4533 - CODE-REQUIRED SPECIAL INSPECTIONS AND PROCEDURES

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Code-required special inspections.
- B. Testing services incidental to special inspections.
- C. Submittals.

1.2 ABBREVIATIONS AND ACRONYMS

- A. AHJ: Authority having jurisdiction.
- B. NIST: National Institute of Standards and Technology.

1.3 DEFINITIONS

- A. Code or Building Code: 2021 Virginia Construction Code (VCC) Part I of Virginia Statewide Building Code (USBC) Effective January 18, 2024 and specifically, Chapter 17 - Special Inspections.
- B. Authority Having Jurisdiction (AHJ): Agency or individual officially empowered to enforce the building, fire and life safety code requirements of the permitting jurisdiction in which the Project is located.
- C. Special Inspection:
 - 1. Special inspections are inspections and testing of materials, installation, fabrication, erection or placement of components and connections mandated by the AHJ that also require special expertise to ensure compliance with the approved Contract Documents and the referenced standards.
 - 2. Special inspections are separate from and independent of tests and inspections conducted by Owner or Contractor for the purposes of quality assurance and contract administration.

1.4 REFERENCE STANDARDS

- A. ASTM E329 - Standard Specification for Agencies Engaged in Construction Inspection, Testing, or Special Inspection; 2014a.
- B. ASTM E543 - Standard Specification for Agencies Performing Nondestructive Testing; 2021.
- C. VCC-2021 - Virginia Construction Code (VCC) Part I of Virginia Statewide Building Code (USBC) Effective January 18, 2021; 2021.
- D. VEBC-2021 - Virginia Existing Building Code (VEBC) Part II of Virginia Statewide Building Code; Effective January 18, 2021.

1.5 SUBMITTAL

- A. Special Inspection Agency Qualifications: Prior to the start of work, the Special Inspection Agency is required to:
 - 1. Submit agency name, address, and telephone number, names of full time registered Engineer and responsible officer.
 - 2. Submit copy of report of laboratory facilities inspection made by NIST Construction Materials Reference Laboratory during most recent inspection, with memorandum of remedies of any deficiencies reported by the inspection.
 - 3. Submit certification that Special Inspection Agency is acceptable to AHJ.
- B. Testing Agency Qualifications: Prior to the start of work, the Testing Agency is required to:
 - 1. Submit agency name, address, and telephone number, and names of full time registered Engineer and responsible officer.
 - 2. Submit copy of report of laboratory facilities inspection made by NIST Construction Materials Reference Laboratory during most recent inspection, with memorandum of remedies of any deficiencies reported by the inspection.
 - 3. Submit certification that Testing Agency is acceptable to AHJ.
- C. Fabricator's Qualification Statement: Fabricator is required to submit documentation that fabricator is approved to perform work without special inspection.
- D. Special Inspection Reports: After each special inspection, Special Inspector is required to promptly submit at least two copies of report; one to Architect/Engineer and one to the AHJ.
 - 1. Include:
 - a. Date issued.
 - b. Project title and number.
 - c. Name of Special Inspector.
 - d. Date and time of special inspection.
 - e. Identification of product and specifications section.
 - f. Location in the Project.
 - g. Type of special inspection.
 - h. Date of special inspection.
 - i. Results of special inspection.
 - j. Compliance with Contract Documents.

2. Periodic Special Inspection Report: Submit periodic special inspection reports weekly with all special inspections performed during the two weeks along with any unresolved discrepancies. Submit the periodic special inspection report after each inspection if the inspections occur further than one week apart.
 3. Final Special Inspection Report: Document special inspections and correction of discrepancies prior to the start of the work. Submit report after completion of all special inspections.
- E. Certificates: When specified in individual special inspection requirements, Special Inspector shall submit certification by the manufacturer, fabricator, and installation subcontractor to Architect/Engineer and AHJ, in quantities specified for Product Data.
1. Indicate material or product complies with or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
 2. Certificates may be recent or previous test results on material or product, but must be acceptable to Architect/Engineer and AHJ.

1.6 SPECIAL INSPECTION AGENCY

- A. Owner or Architect/Engineer will employ services of a Special Inspection Agency to perform inspections and associated testing and sampling in accordance with ASTM E329 and required by the building code.
- B. The Special Inspection Agency may employ and pay for services of an independent testing agency to perform testing and sampling associated with special inspections and required by the building code.
- C. Employment of agency in no way relieves Contractor of obligation to perform work in accordance with requirements of Contract Documents.

1.7 TESTING AND INSPECTION AGENCIES

- A. Owner or Architect/Engineer may employ services of an independent testing agency to perform additional testing and sampling associated with special inspections but not required by the building code.
- B. Employment of agency in no way relieves Contractor of obligation to perform work in accordance with requirements of Contract Documents.

1.8 QUALITY ASSURANCE

- A. Special Inspection Agency Qualifications:
 1. Independent firm specializing in performing testing and inspections of the type specified in this section.
- B. Testing Agency Qualifications:

1. Independent firm specializing in performing testing and inspections of the type specified in this section.
- C. Copies of Documents at Project Site: Maintain at the project site a copy of each referenced document.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.1 SCHEDULE OF SPECIAL INSPECTIONS, GENERAL

- A. Frequency of Special Inspections: Special Inspections are indicated as continuous or periodic.
 1. Continuous Special Inspection: Special Inspection Agency is required to be present in the area where the work is being performed and observe the work at all times the work is in progress.
 2. Periodic Special Inspection: Special Inspection Agency is required to be present in the area where work is being performed and observe the work part-time or intermittently and at the completion of the work.
- B. Schedule of Special Inspection: The Schedule of Special Inspections is included with the Statement of Special Inspections as an attachment to this specification.

3.2 SPECIAL INSPECTION AGENCY DUTIES AND RESPONSIBILITIES

- A. Special Inspection Agency shall:
 1. Provide qualified personnel at site. Cooperate with Architect/Engineer and Contractor in performance of services.
 2. Perform specified sampling and testing of products in accordance with specified reference standards.
 3. Ascertain compliance of materials and products with requirements of Contract Documents.
 4. Promptly notify Architect/Engineer and Contractor of observed irregularities or non-compliance of work or products.
 5. Perform additional tests and inspections required by Architect/Engineer.
 6. Attend preconstruction meetings and progress meetings.
 7. Submit reports of all tests or inspections specified.
- B. Limits on Special Inspection Agency Authority:
 1. Agency may not release, revoke, alter, or enlarge on requirements of Contract Documents.

2. Agency may not approve or accept any portion of the work.
 3. Agency may not assume any duties of Contractor.
 4. Agency has no authority to stop the work.
- C. Re-testing required because of non-compliance with specified requirements shall be performed by the same agency on instructions by Architect/Engineer.
- D. Re-testing required because of non-compliance with specified requirements shall be paid for by Contractor.

3.3 TESTING AGENCY DUTIES AND RESPONSIBILITIES

- A. Testing Agency Duties:
1. Provide qualified personnel at site. Cooperate with Architect/Engineer and Contractor in performance of services.
 2. Perform specified sampling and testing of products in accordance with specified standards.
 3. Ascertain compliance of materials and mixes with requirements of Contract Documents.
 4. Promptly notify Architect/Engineer and Contractor of observed irregularities or non-compliance of work or products.
 5. Perform additional tests and inspections required by Architect/Engineer.
 6. Attend preconstruction meetings and progress meetings.
 7. Submit reports of all tests or inspections specified.
- B. Limits on Testing or Inspection Agency Authority:
1. Agency may not release, revoke, alter, or enlarge on requirements of Contract Documents.
 2. Agency may not approve or accept any portion of the work.
 3. Agency may not assume any duties of Contractor.
 4. Agency has no authority to stop the work.
- C. On instructions by Architect/Engineer, perform re-testing required because of non-compliance with specified requirements, using the same agency.
- D. Contractor will pay for re-testing required because of non-compliance with specified requirements.

3.4 CONTRACTOR DUTIES AND RESPONSIBILITIES

- A. Contractor Responsibilities, General:

1. Deliver to agency at designated location, adequate samples of materials for special inspections that require material verification.
2. Cooperate with agency and laboratory personnel; provide access to approved documents at project site, to the work, to manufacturers' facilities, and to fabricators' facilities.
3. Provide incidental labor and facilities:
 - a. To provide access to work to be tested or inspected.
 - b. To obtain and handle samples at the site or at source of Products to be tested or inspected.
 - c. To facilitate tests or inspections.
 - d. To provide storage and curing of test samples.
4. Notify Architect/Engineer and laboratory 24 hours prior to expected time for operations requiring testing or inspection services.
5. Arrange with Owner's agency and pay for additional samples, tests, and inspections required by Contractor beyond specified requirements.
6. Retain special inspection records.

END OF SECTION

SECTION 01 5000 - TEMPORARY FACILITIES AND CONTROLS

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Temporary utilities.
- B. Temporary sanitary facilities.
- C. Temporary Controls: Barriers, enclosures, and fencing.
- D. Security requirements.
- E. Vehicular access and parking.
- F. Waste removal facilities and services.

1.2 TEMPORARY UTILITIES

- A. Owner will provide the following:
 - 1. Electrical power and metering, consisting of connection to existing facilities.
 - 2. Water supply, consisting of connection to existing facilities.

1.3 TEMPORARY SANITARY FACILITIES

- A. Provide and maintain required facilities and enclosures. Provide at time of project mobilization.
- B. Maintain daily in clean and sanitary condition.

1.4 BARRIERS

- A. Provide barriers to prevent unauthorized entry to construction areas, to prevent access to areas that could be hazardous to workers or the public, to allow for owner's use of site and to protect existing facilities and adjacent properties from damage from construction operations and demolition.
- B. Provide barricades and covered walkways required by governing authorities for public rights-of-way and for public access to existing building.
- C. Protect non-owned vehicular traffic, stored materials, site, and structures from damage.
- D. Provide signage directing public to alternate restrooms.

1.5 FENCING

- A. Construction: Contractor's option.

1.6 SECURITY

- A. Provide security and facilities to protect Work, existing facilities, and Owner's operations from unauthorized entry, vandalism, or theft.

1.7 VEHICULAR ACCESS AND PARKING - SEE SECTION 01 5500

- A. Comply with regulations relating to use of streets and sidewalks, access to emergency facilities, and access for emergency vehicles.
- B. Coordinate access and haul routes with governing authorities and Owner.
- C. Provide and maintain access to fire hydrants, free of obstructions.
- D. Provide means of removing mud from vehicle wheels before entering streets.
- E. Designated existing on-site roads may be used for construction traffic.
- F. Provide temporary parking areas to accommodate construction personnel. When site space is not adequate, provide additional off-site parking.
- G. Amount and location of parking for construction personnel to be determined by the Owner.

1.8 WASTE REMOVAL

- A. Provide waste removal facilities and services as required to maintain the site in clean and orderly condition.
- B. Provide containers with lids. Remove trash from site periodically.
- C. If materials to be recycled or re-used on the project must be stored on-site, provide suitable non-combustible containers; locate containers holding flammable material outside the structure unless otherwise approved by the authorities having jurisdiction.
- D. Open free-fall chutes are not permitted. Terminate closed chutes into appropriate containers with lids.

1.9 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

- A. Remove temporary utilities, equipment, facilities, materials, prior to Date of Substantial Completion inspection.
- B. Remove underground installations to a minimum depth of 2 feet. Grade site as indicated.
- C. Clean and repair damage caused by installation or use of temporary work.
- D. Restore existing facilities used during construction to original condition.

END OF SECTION

SECTION 01 6000 - PRODUCT REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Re-use of existing products.
- B. Transportation, handling, storage and protection.
- C. Product option requirements.
- D. Substitution limitations.
- E. Procedures for Owner-supplied products.
- F. Maintenance materials, including extra materials, spare parts, tools, and software.

1.2 RELATED REQUIREMENTS

- A. Section 01 1000 - Summary
- B. Section 01 4000 - Quality Requirements: Product quality monitoring.

1.3 REFERENCE STANDARDS

1.4 SUBMITTALS

- A. Product Data Submittals: Submit manufacturer's standard published data. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.
- B. Shop Drawing Submittals: Prepared specifically for this Project; indicate utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- C. Sample Submittals: Illustrate functional and aesthetic characteristics of the product, with integral parts and attachment devices. Coordinate sample submittals for interfacing work.
 - 1. For selection from standard finishes, submit samples of the full range of the manufacturer's standard colors, textures, and patterns.

PART 2 PRODUCTS

2.1 EXISTING PRODUCTS

- A. Existing materials and equipment indicated to be removed, but not to be re-used, relocated, reinstalled, delivered to the Owner, or otherwise indicated as to remain the property of the Owner, become the property of the Contractor; remove from site.

2.2 NEW PRODUCTS

- A. Provide new products unless specifically required or permitted by Contract Documents.

- B. See Section 01 4000 - Quality Requirements, for additional source quality control requirements.
- C. Use of products having any of the following characteristics is not permitted:
 - 1. Made using or containing CFC's or HCFC's.
 - 2. Made of wood from newly cut old growth timber.
 - 3. Containing lead, cadmium, or asbestos.
- D. Where other criteria are met, Contractor shall give preference to products that:
 - 1. If used on interior, have lower emissions, as defined in Section 01 6116.
 - 2. If wet-applied, have lower VOC content, as defined in Section 01 6116.
 - 3. Are extracted, harvested, and/or manufactured closer to the location of the project.
 - 4. Are made of recycled materials.
 - 5. If made of wood, are made of sustainably harvested wood, wood chips, or wood fiber.
 - 6. Are Cradle-to-Cradle Certified.

2.3 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Use any product meeting those standards or description.
- B. Products Specified by Naming One or More Manufacturers: Use a product of one of the manufacturers named and meeting specifications, no options or substitutions allowed.
- C. Products Specified by Naming One or More Manufacturers with a Provision for Substitutions: Submit a request for substitution for any manufacturer not named.

2.4 MAINTENANCE MATERIALS

- A. Furnish extra materials, spare parts, tools, and software of types and in quantities specified in individual specification sections.
- B. Deliver to Project site; obtain receipt prior to final payment.

PART 3 EXECUTION

3.1 OWNER-SUPPLIED PRODUCTS

- A. Owner's Responsibilities:
 - 1. Arrange for and deliver Owner reviewed shop drawings, product data, and samples, to Contractor.
 - 2. Arrange and pay for product delivery to site.

3. On delivery, inspect products jointly with Contractor.
 4. Submit claims for transportation damage and replace damaged, defective, or deficient items.
 5. Arrange for manufacturers' warranties, inspections, and service.
- B. Contractor's Responsibilities:
1. Review Owner reviewed shop drawings, product data, and samples.
 2. Receive and unload products at site; inspect for completeness or damage jointly with Owner.
 3. Handle, store, install and finish products.
 4. Repair or replace items damaged after receipt.

3.2 TRANSPORTATION AND HANDLING

- A. Package products for shipment in manner to prevent damage; for equipment, package to avoid loss of factory calibration.
- B. If special precautions are required, attach instructions prominently and legibly on outside of packaging.
- C. Coordinate schedule of product delivery to designated prepared areas in order to minimize site storage time and potential damage to stored materials.
- D. Transport and handle products in accordance with manufacturer's instructions.
- E. Transport materials in covered trucks to prevent contamination of product and littering of surrounding areas.
- F. Promptly inspect shipments to ensure that products comply with requirements, quantities are correct, and products are undamaged.
- G. Provide equipment and personnel to handle products by methods to prevent soiling, disfigurement, or damage, and to minimize handling.
- H. Arrange for the return of packing materials, such as wood pallets, where economically feasible.

3.3 STORAGE AND PROTECTION

- A. Designate receiving/storage areas for incoming products so that they are delivered according to installation schedule and placed convenient to work area in order to minimize waste due to excessive materials handling and misapplication. See Section 01 7419.
- B. Store and protect products in accordance with manufacturers' instructions.
- C. Store with seals and labels intact and legible.

- D. Store sensitive products in weathertight, climate-controlled enclosures in an environment favorable to product.
- E. For exterior storage of fabricated products, place on sloped supports above ground.
- F. Protect products from damage or deterioration due to construction operations, weather, precipitation, humidity, temperature, sunlight and ultraviolet light, dirt, dust, and other contaminants.
- G. Comply with manufacturer's warranty conditions, if any.
- H. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of products.
- I. Prevent contact with material that may cause corrosion, discoloration, or staining.
- J. Provide equipment and personnel to store products by methods to prevent soiling, disfigurement, or damage.
- K. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.

END OF SECTION

SECTION 01 7000 - EXECUTION AND CLOSEOUT REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Examination, preparation, and general installation procedures.
- B. Requirements for alterations work, including selective demolition, _____.
- C. Cutting and patching.
- D. Surveying for laying out the work.
- E. Cleaning and protection.
- F. Closeout procedures, including Contractor's Correction Punch List, except payment procedures.
- G. General requirements for maintenance service.

1.2 RELATED REQUIREMENTS

- A. Section 01 1000 - Summary: Limitations on working in existing building.
- B. Section 01 3000 - Administrative Requirements: Submittals procedures, Electronic document submittal service.
- C. Section 01 4000 - Quality Requirements: Testing and inspection procedures.
- D. Section 01 5000 - Temporary Facilities and Controls:
- E. Section 01 7800 - Closeout Submittals: Project record documents, operation and maintenance data, warranties, and bonds.

1.3 REFERENCE STANDARDS

- A. NFPA 241 - Standard for Safeguarding Construction, Alteration, and Demolition Operations; 2013.

1.4 SUBMITTALS

- A. See Section 01 3000 - Administrative Requirements, for submittal procedures.
- B. Survey work: Submit name, address, and telephone number of Surveyor before starting survey work.
 - 1. On request, submit documentation verifying accuracy of survey work.
 - 2. Submit a copy of site drawing signed by the Land Surveyor, that the elevations and locations of the work are in compliance with Contract Documents.
 - 3. Submit surveys and survey logs for the project record.

- C. Cutting and Patching: Submit written request in advance of cutting or alteration that affects:
1. Structural integrity of any element of Project.
 2. Integrity of weather exposed or moisture resistant element.
 3. Efficiency, maintenance, or safety of any operational element.
 4. Visual qualities of sight exposed elements.
 5. Work of Owner or separate Contractor.
 6. Include in request:
 - a. Identification of Project.
 - b. Location and description of affected work.
 - c. Necessity for cutting or alteration.
 - d. Description of proposed work and products to be used.
 - e. Effect on work of Owner or separate Contractor.
 - f. Written permission of affected separate Contractor.
 - g. Date and time work will be executed.

1.5 QUALIFICATIONS

- A. For surveying work, employ a land surveyor registered in the State in which the Project is located and acceptable to Architect/Engineer. Submit evidence of surveyor's Errors and Omissions insurance coverage in the form of an Insurance Certificate. Employ only individual(s) trained and experienced in collecting and recording accurate data relevant to ongoing construction activities.

1.6 PROJECT CONDITIONS

- A. Use of explosives is not permitted.
- B. Grade site to drain. Maintain excavations free of water. Provide, operate, and maintain pumping equipment.
- C. Protect site from puddling or running water. Provide water barriers as required to protect site from soil erosion.
- D. Ventilate enclosed areas to assist cure of materials, to dissipate humidity, and to prevent accumulation of dust, fumes, vapors, or gases.
- E. Erosion and Sediment Control: Plan and execute work by methods to control surface drainage from cuts and fills, from borrow and waste disposal areas. Prevent erosion and sedimentation.

- F. Noise Control: Provide methods, means, and facilities to minimize noise produced by construction operations.
 - 1. Outdoors: Limit conduct of especially noisy exterior work to w7:00 am to 7:00 pm.
- G. Pest and Rodent Control: Provide methods, means, and facilities to prevent pests and insects from damaging the work.
- H. Pollution Control: Provide methods, means, and facilities to prevent contamination of soil, water, and atmosphere from discharge of noxious, toxic substances, and pollutants produced by construction operations. Comply with federal, state, and local regulations.

1.7 COORDINATION

- A. Coordinate scheduling, submittals, and work of the various sections of the Project Manual to ensure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.
- B. Notify affected utility companies and comply with their requirements.
- C. Verify that utility requirements and characteristics of new operating equipment are compatible with building utilities. Coordinate work of various sections having interdependent responsibilities for installing, connecting to, and placing in service, such equipment.
- D. Coordinate space requirements, supports, and installation of mechanical and electrical work that are indicated diagrammatically on drawings. Follow routing indicated for pipes, ducts, and conduit, as closely as practicable; place runs parallel with lines of building. Utilize spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
- E. In finished areas except as otherwise indicated, conceal pipes, ducts, and wiring within the construction. Coordinate locations of fixtures and outlets with finish elements.
- F. Coordinate completion and clean-up of work of separate sections.
- G. After Owner occupancy of premises, coordinate access to site for correction of defective work and work not in accordance with Contract Documents, to minimize disruption of Owner's activities.

PART 2 PRODUCTS

2.1 PATCHING MATERIALS

- A. New Materials: As specified in product sections; match existing products and work for patching and extending work.
- B. Type and Quality of Existing Products: Determine by inspecting and testing products where necessary, referring to existing work as a standard.
- C. Product Substitution: For any proposed change in materials, submit request for substitution described in Section 01 6000 - Product Requirements.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Verify that existing site conditions and substrate surfaces are acceptable for subsequent work. Start of work means acceptance of existing conditions.
- B. Verify that existing substrate is capable of structural support or attachment of new work being applied or attached.
- C. Examine and verify specific conditions described in individual specification sections.
- D. Take field measurements before confirming product orders or beginning fabrication, to minimize waste due to over-ordering or misfabrication.
- E. Verify that utility services are available, of the correct characteristics, and in the correct locations.
- F. Prior to Cutting: Examine existing conditions prior to commencing work, including elements subject to damage or movement during cutting and patching. After uncovering existing work, assess conditions affecting performance of work. Beginning of cutting or patching means acceptance of existing conditions.

3.2 PREPARATION

- A. Clean substrate surfaces prior to applying next material or substance.
- B. Seal cracks or openings of substrate prior to applying next material or substance.
- C. Apply manufacturer required or recommended substrate primer, sealer, or conditioner prior to applying any new material or substance in contact or bond.

3.3 LAYING OUT THE WORK

- A. Verify locations of survey control points prior to starting work.
- B. Promptly notify Architect/Engineer of any discrepancies discovered.
- C. Contractor shall locate and protect survey control and reference points.
- D. Protect survey control points prior to starting site work; preserve permanent reference points during construction.
- E. Promptly report to Architect/Engineer the loss or destruction of any reference point or relocation required because of changes in grades or other reasons.
- F. Replace dislocated survey control points based on original survey control. Make no changes without prior written notice to Architect/Engineer.
- G. Utilize recognized engineering survey practices.

- H. Establish elevations, lines and levels. Locate and lay out by instrumentation and similar appropriate means:
 - 1. Site improvements including pavements; stakes for grading, fill and topsoil placement; utility locations, slopes, and invert elevations; and _____.
 - 2. Grid or axis for structures.
 - 3. Building foundation, column locations, ground floor elevations, and _____.
- I. Periodically verify layouts by same means.
- J. Maintain a complete and accurate log of control and survey work as it progresses.

3.4 GENERAL INSTALLATION REQUIREMENTS

- A. Install products as specified in individual sections, in accordance with manufacturer's instructions and recommendations, and so as to avoid waste due to necessity for replacement.
- B. Make vertical elements plumb and horizontal elements level, unless otherwise indicated.
- C. Install equipment and fittings plumb and level, neatly aligned with adjacent vertical and horizontal lines, unless otherwise indicated.
- D. Make consistent texture on surfaces, with seamless transitions, unless otherwise indicated.
- E. Make neat transitions between different surfaces, maintaining texture and appearance.

3.5 ALTERATIONS

- A. Drawings showing existing construction and utilities are based on casual field observation and existing record documents only.
 - 1. Verify that construction and utility arrangements are as indicated.
 - 2. Report discrepancies to Architect/Engineer before disturbing existing installation.
 - 3. Beginning of alterations work constitutes acceptance of existing conditions.
- B. Remove existing work as indicated and as required to accomplish new work.
 - 1. Remove items indicated on drawings.
 - 2. Relocate items indicated on drawings.
 - 3. Where new surface finishes are to be applied to existing work, perform removals, patch, and prepare existing surfaces as required to receive new finish; remove existing finish if necessary for successful application of new finish.
 - 4. Where new surface finishes are not specified or indicated, patch holes and damaged surfaces to match adjacent finished surfaces as closely as possible.

- C. Services (Including but not limited to HVAC, Plumbing, Fire Protection, Electrical, Telecommunications, and _____): Remove, relocate, and extend existing systems to accommodate new construction.
1. Maintain existing active systems that are to remain in operation; maintain access to equipment and operational components; if necessary, modify installation to allow access or provide access panel.
 2. Where existing systems or equipment are not active and Contract Documents require reactivation, put back into operational condition; repair supply, distribution, and equipment as required.
 3. Where existing active systems serve occupied facilities but are to be replaced with new services, maintain existing systems in service until new systems are complete and ready for service.
 - a. Disable existing systems only to make switchovers and connections; minimize duration of outages.
 - b. Provide temporary connections as required to maintain existing systems in service.
 4. Verify that abandoned services serve only abandoned facilities.
 5. Remove abandoned pipe, ducts, conduits, and equipment , including those above accessible ceilings; remove back to source of supply where possible, otherwise cap stub and tag with identification; patch holes left by removal using materials specified for new construction.
- D. Protect existing work to remain.
1. Prevent movement of structure; provide shoring and bracing if necessary.
 2. Perform cutting to accomplish removals neatly and as specified for cutting new work.
 3. Repair adjacent construction and finishes damaged during removal work.
- E. Adapt existing work to fit new work: Make as neat and smooth transition as possible.
- F. Patching: Where the existing surface is not indicated to be refinished, patch to match the surface finish that existed prior to cutting. Where the surface is indicated to be refinished, patch so that the substrate is ready for the new finish.
- G. Refinish existing surfaces as indicated:
1. Where rooms or spaces are indicated to be refinished, refinish all visible existing surfaces to remain to the specified condition for each material, with a neat transition to adjacent finishes.
 2. If mechanical or electrical work is exposed accidentally during the work, re-cover and refinish to match.

- H. Clean existing systems and equipment.
- I. Remove demolition debris and abandoned items from alterations areas and dispose of off-site; do not burn or bury.
- J. Do not begin new construction in alterations areas before demolition is complete.
- K. Comply with all other applicable requirements of this section.

3.6 CUTTING AND PATCHING

- A. Whenever possible, execute the work by methods that avoid cutting or patching.
- B. See Alterations article above for additional requirements.
- C. Perform whatever cutting and patching is necessary to:
 - 1. Complete the work.
 - 2. Fit products together to integrate with other work.
 - 3. Provide openings for penetration of mechanical, electrical, and other services.
 - 4. Match work that has been cut to adjacent work.
 - 5. Repair areas adjacent to cuts to required condition.
 - 6. Repair new work damaged by subsequent work.
 - 7. Remove samples of installed work for testing when requested.
 - 8. Remove and replace defective and non-complying work.
- D. Execute work by methods that avoid damage to other work and that will provide appropriate surfaces to receive patching and finishing. In existing work, minimize damage and restore to original condition.
- E. Cut rigid materials using masonry saw or core drill. Pneumatic tools not allowed without prior approval.
- F. Restore work with new products in accordance with requirements of Contract Documents.
- G. Fit work air tight to pipes, sleeves, ducts, conduit, and other penetrations through surfaces.
- H. Patching:
 - 1. Finish patched surfaces to match finish that existed prior to patching. On continuous surfaces, refinish to nearest intersection or natural break. For an assembly, refinish entire unit.
 - 2. Match color, texture, and appearance.

3. Repair patched surfaces that are damaged, lifted, discolored, or showing other imperfections due to patching work. If defects are due to condition of substrate, repair substrate prior to repairing finish.

3.7 PROGRESS CLEANING

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly condition.
- B. Remove debris and rubbish from pipe chases, plenums, attics, crawl spaces, and other closed or remote spaces, prior to enclosing the space.
- C. Broom and vacuum clean interior areas prior to start of surface finishing, and continue cleaning to eliminate dust.
- D. Collect and remove waste materials, debris, and trash/rubbish from site periodically and dispose off-site; do not burn or bury.

3.8 PROTECTION OF INSTALLED WORK

- A. Protect installed work from damage by construction operations.
- B. Provide special protection where specified in individual specification sections.
- C. Provide temporary and removable protection for installed products. Control activity in immediate work area to prevent damage.
- D. Provide protective coverings at walls, projections, jambs, sills, and soffits of openings.
- E. Protect finished floors, stairs, and other surfaces from traffic, dirt, wear, damage, or movement of heavy objects, by protecting with durable sheet materials.
- F. Prohibit traffic or storage upon waterproofed or roofed surfaces. If traffic or activity is necessary, obtain recommendations for protection from waterproofing or roofing material manufacturer.
- G. Remove protective coverings when no longer needed; reuse or recycle coverings if possible.

3.9 ADJUSTING

- A. Adjust operating products and equipment to ensure smooth and unhindered operation.

3.10 FINAL CLEANING

- A. Use cleaning materials that are nonhazardous.
- B. Clean interior and exterior glass, surfaces exposed to view; remove temporary labels, stains and foreign substances, polish transparent and glossy surfaces, vacuum carpeted and soft surfaces.
- C. Remove all labels that are not permanent. Do not paint or otherwise cover fire test labels or nameplates on mechanical and electrical equipment.

- D. Clean equipment and fixtures to a sanitary condition with cleaning materials appropriate to the surface and material being cleaned.
- E. Clean filters of operating equipment.
- F. Clean debris from roofs, gutters, downspouts, scuppers, overflow drains, area drains, drainage systems, and _____.
- G. Clean site; sweep paved areas, rake clean landscaped surfaces.
- H. Remove waste, surplus materials, trash/rubbish, and construction facilities from the site; dispose of in legal manner; do not burn or bury.

3.11 CLOSEOUT PROCEDURES

- A. Make submittals that are required by governing or other authorities.
- B. Accompany Project Coordinator on preliminary inspection to determine items to be listed for completion or correction in the Contractor's Correction Punch List for Contractor's Notice of Substantial Completion.
- C. Notify Architect/Engineer when work is considered ready for Architect/Engineer's Substantial Completion inspection.
- D. Submit written certification containing Contractor's Correction Punch List, that Contract Documents have been reviewed, work has been inspected, and that work is complete in accordance with Contract Documents and ready for Architect/Engineer's Substantial Completion inspection.
- E. Conduct Substantial Completion inspection and create Final Correction Punch List containing Architect/Engineer's and Contractor's comprehensive list of items identified to be completed or corrected and submit to Architect/Engineer.
- F. Correct items of work listed in Final Correction Punch List and comply with requirements for access to Owner-occupied areas.
- G. Notify Architect/Engineer when work is considered finally complete and ready for Architect/Engineer's Substantial Completion final inspection.
- H. Complete items of work determined by Architect/Engineer listed in executed Certificate of Substantial Completion.

3.12 MAINTENANCE

- A. Provide service and maintenance of components indicated in specification sections.
- B. Maintenance Period: As indicated in specification sections or, if not indicated, not less than one year from the Date of Substantial Completion or the length of the specified warranty, whichever is longer.

- C. Examine system components at a frequency consistent with reliable operation. Clean, adjust, and lubricate as required.
- D. Include systematic examination, adjustment, and lubrication of components. Repair or replace parts whenever required. Use parts produced by the manufacturer of the original component.
- E. Maintenance service shall not be assigned or transferred to any agent or subcontractor without prior written consent of the Owner.

END OF SECTION

SECTION 01 7800 - CLOSEOUT SUBMITTALS

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Project Record Documents.
- B. Operation and Maintenance Data.
- C. Warranties and bonds.

1.2 RELATED REQUIREMENTS

- A. Section 00 7210 - General Conditions: Performance bond and labor and material payment bonds, warranty, and correction of work.
- B. Section 01 3000 - Administrative Requirements: Submittals procedures, shop drawings, product data, and samples.
- C. Section 01 7000 - Execution and Closeout Requirements: Contract closeout procedures.
- D. Individual Product Sections: Specific requirements for operation and maintenance data.
- E. Individual Product Sections: Warranties required for specific products or Work.

1.3 SUBMITTALS

- A. Project Record Documents: Submit documents to Architect/Engineer with claim for final Application for Payment.
- B. Operation and Maintenance Data:
 - 1. For equipment, or component parts of equipment put into service during construction and operated by Owner, submit completed documents within ten days after acceptance.
 - 2. Submit one copy of completed documents 15 days prior to final inspection. This copy will be reviewed and returned after final inspection, with Architect/Engineer comments. Revise content of all document sets as required prior to final submission.
 - 3. Submit two sets of revised final documents in final form within 10 days after final inspection.
- C. Warranties and Bonds:
 - 1. For equipment or component parts of equipment put into service during construction with Owner's permission, submit documents within 10 days after acceptance.
 - 2. Make other submittals within 10 days after Date of Substantial Completion, prior to final Application for Payment.

3. For items of Work for which acceptance is delayed beyond Date of Substantial Completion, submit within 10 days after acceptance, listing the date of acceptance as the beginning of the warranty period.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.1 PROJECT RECORD DOCUMENTS

- A. Maintain on site one set of the following record documents; record actual revisions to the Work:
 1. Drawings.
 2. Addenda.
 3. Change Orders and other modifications to the Contract.
- B. Ensure entries are complete and accurate, enabling future reference by Owner.
- C. Store record documents separate from documents used for construction.
- D. Record information concurrent with construction progress.
- E. Record Drawings: Legibly mark each item to record actual construction including:
 1. Field changes of dimension and detail.
 2. Details not on original Contract drawings.

3.2 OPERATION AND MAINTENANCE DATA

- A. Product Data: Mark each sheet to clearly identify specific products and component parts, and data applicable to installation. Delete inapplicable information.
- B. Drawings: Supplement product data to illustrate relations of component parts of equipment and systems, to show control and flow diagrams. Do not use Project Record Documents as maintenance drawings.
- C. Typed Text: As required to supplement product data. Provide logical sequence of instructions for each procedure, incorporating manufacturer's instructions.

3.3 OPERATION AND MAINTENANCE DATA FOR MATERIALS AND FINISHES

- A. Where additional instructions are required, beyond the manufacturer's standard printed instructions, have instructions prepared by personnel experienced in the operation and maintenance of the specific products.

3.4 ASSEMBLY OF OPERATION AND MAINTENANCE MANUALS

- A. Assemble operation and maintenance data into durable manuals for Owner's personnel use, with data arranged in the same sequence as, and identified by, the specification sections.

- B. Where systems involve more than one specification section, provide separate tabbed divider for each system.
- C. Binders: Commercial quality, 8-1/2 by 11 inch three D side ring binders with durable plastic covers; 2 inch maximum ring size. When multiple binders are used, correlate data into related consistent groupings.
- D. Cover: Identify each binder with typed or printed title OPERATION AND MAINTENANCE INSTRUCTIONS; identify title of Project; identify subject matter of contents.
- E. Project Directory: Title and address of Project; names, addresses, and telephone numbers of Architect/Engineer, Consultants, Contractor and subcontractors, with names of responsible parties.
- F. Tables of Contents: List every item separated by a divider, using the same identification as on the divider tab; where multiple volumes are required, include all volumes Tables of Contents in each volume, with the current volume clearly identified.
- G. Dividers: Provide tabbed dividers for each separate product and system; identify the contents on the divider tab; immediately following the divider tab include a description of product and major component parts of equipment.
- H. Text: Manufacturer's printed data, or typewritten data on 20 pound paper.
- I. Drawings: Provide with reinforced punched binder tab. Bind in with text; fold larger drawings to size of text pages.

3.5 WARRANTIES AND BONDS

- A. Obtain warranties and bonds, executed in duplicate by responsible Subcontractors, suppliers, and manufacturers, within 10 days after completion of the applicable item of work. Except for items put into use with Owner's permission, leave date of beginning of time of warranty until Date of Substantial completion is determined.
- B. Verify that documents are in proper form, contain full information, and are notarized.
- C. Co-execute submittals when required.
- D. Retain warranties and bonds until time specified for submittal.

END OF SECTION