

# PROJECT MANUAL

SEPTEMBER 29, 2023



# VLK | ARCHITECTS

## Marcus H.S. Food Service Equipment Replacements and Renovations LEWISVILLE ISD LEWISVILLE, TEXAS

### OWNER:



**Lewisville  
Independent School District**  
1565 W. Main Street  
Lewisville, Texas 75067

VLK Project No.

22-121.00

Lewisville  
Project No.  
CSP #1071-23



## OWNER

**Lewisville  
Independent School District**  
1565 W. Main Street  
Lewisville, Texas 75067

## ARCHITECT

**VLK Architects, Inc.**  
Kent Leach, AIA, LEED® AP  
5801 Tennyson Pkwy, Suite 100  
Plano, Texas 75024  
Phone: 972.265.1885  
www.vlkarchitects.com



09/29/2023

## FOOD SERVICE

**JMK Foodservice Consulting &  
Design, LLC**  
3431 Lakeview Pkwy  
Rowlett, Texas 75013  
Phone: 214.227.2481  
www.jmkda.net

## PROJECT MANUAL

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**Marcus H.S. Food Service Equipment  
Replacements and Renovations**  
LEWISVILLE ISD  
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Marcus H.S. Food Service Equipment Replacements and Renovations  
Lewisville ISD  
Lewisville, Texas

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## GENERAL CONDITIONS FOR PRODUCTS AND SERVICES

1. By submitting a proposal, the vendor expressly agrees to waive any claim it has or may have against the district, its directors, officers, its trustees, and/or agents arising out of or in connection with (1) the administration, evaluation, recommendation of any proposal; (2) any requirements under the solicitation, proposal package, or related documents; (3) the rejection of any proposal or any part of any proposal; and/or (4) the award, if any.
2. Electronic bids are to be submitted in the Lewisville ISD online procurement system unless otherwise specified in the bid document. Forms are provided for download to be completed and then attached to the bid document. Manual bids shall be completed on the forms provided. All prices must be typed or written in ink. Bids written in pencil will not be accepted. Each manual bid shall be placed in a separate envelope, sealed and properly identified with the bid title and the time and date to be opened as shown in the "Notice to Bidders". Please note that the words "proposal" and "bid" may be used interchangeably throughout this packet but shall have the same meaning. The words "bidder" and "vendor" may also be used interchangeably.
3. Electronic bids and manual bids must be received in the Lewisville Independent School District Purchasing Department office ***before the hour and date specified***. **DO NOT FAX OR EMAIL YOUR BID!** The Lewisville Independent School District may also be referred to herein as Lewisville ISD, LISD, District or School District.  
  
If due to inclement weather, natural disaster, or for any other cause the District office location where bids/proposals are to be submitted is closed on the due date, the deadline for submission shall automatically be extended until the next District business day on which the office is open, unless the bidder is otherwise notified by the District. The time of day for submission shall remain the same.
4. The District is exempt from Federal Excise Tax State and City Sales Tax. Do not include Federal Excise Tax, State or City Sales Tax in your bid totals. If it is determined that tax was included in the bid, it will not be included in the tabulation or any awards. LISD will furnish the tax exemption certificate, if required.
5. Lewisville Independent School District reserves the right to accept or reject any or all proposals, accept or reject any part of any bid, waive minor technicalities and to accept the bid or bids that are determined to be the best value for the District.
6. If bidder is awarded a contract, the District shall have the right to terminate for default all or any part of the contract if bidder breaches any of the terms herein or if the bidder becomes insolvent or files any petition in bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the District may have under contract or in law or equity, specifically including, but not limited to, the right to collect for damages or demand specific performance. The District has the right to terminate this contract for convenience, without penalty, if the District fails to appropriate funds or provide for an annual renewal of a contract, following delivery of notice to the bidder specifying the extent to which performance hereunder is terminated and the date upon which such termination becomes effective.
7. All products and services being bid must conform to all appropriate local, state, and federal laws, ordinances, and regulations as well as LISD Board policies.
8. IT IS TO BE UNDERSTOOD THAT THE BIDDER, IF AWARDED AN ORDER OR CONTRACT, AGREES TO PROTECT, DEFEND, AND HOLD HARMLESS THE LEWISVILLE INDEPENDENT SCHOOL DISTRICT AND ITS OFFICIALS AND EMPLOYEES FROM ANY SUITS OR DEMANDS FOR PAYMENT THAT MAY BE BROUGHT AGAINST LEWISVILLE INDEPENDENT SCHOOL DISTRICT AND ITS OFFICIALS AND EMPLOYEES FOR THE USE OF ANY PATENTED MATERIAL, PROCESS, ARTICLE, OR DEVICE THAT MAY ENTER INTO THE MANUFACTURE AND/OR CONSTRUCTION OR FROM A PART OF THE WORK COVERED BY EITHER ORDER OR CONTRACT AND, BIDDER FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE LEWISVILLE INDEPENDENT SCHOOL DISTRICT AND ITS OFFICIALS AND EMPLOYEES FROM SUITS OR ACTIONS OF EVERY NATURE AND DESCRIPTION BROUGHT AGAINST IT FOR, OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PARTY OR PARTIES BY, OR FOR ANY OF THE ACTS OF THE BIDDER, HIS EMPLOYEES, SERVANTS OR AGENTS.

9. Contact between bidders and LISD personnel or officials during the proposal process or evaluation process is prohibited. Any attempt by bidders during the proposal process to contact LISD personnel or officials may result in disqualification. All communications shall go through the LISD Purchasing Department during this competitive process.
10. Any contract awarded will be done in the best interest of Lewisville Independent School District.
11. Any and all protests regarding LISD bidding procedures will be governed by the "Lewisville Independent School District Procedure for Protests".
12. The Lewisville Independent School District shall not be liable for non-funding of a contract.
13. All bidders must execute the appropriate forms included with the bid for this bid to be considered. The name of the company representative on these forms should be the same, and must be an individual in a position with actual authority to bind the company submitting the bid.
14. Bid results and recommendations will be presented to the Lewisville Independent School District Board of Trustees for approval at the earliest reasonable opportunity following the bid/proposal opening if anticipated expenditures exceed \$50,000 or greater.
15. It is the policy of the Lewisville Independent School District not to discriminate on the basis of sex, disability, race, color, or national origin in its educational programs and/or activities, nor in its employment practices.
16. The bidder shall not sell, assign, transfer, or convey any contract resulting from this proposal, in whole or part, without prior written consent from the District. Any such consent shall not relieve the bidder of liability in the event of default by the assignee.
17. Awarded contracts may or may not be exclusive and may be awarded to multiple bidders. The District may also issue multiple bids or requests for proposals at a later date in order to seek additional bidders for the same time period, in the best interest of the District. If needed, the District may also utilize federal and state contracts, interlocal cooperative contracts or any legal procurement method to procure the same or similar products and services.
18. CERTIFICATION: By signing this proposal the bidder certifies and warrants that:
  - a. The bidder has not paid, or agreed to pay, any person or entity, other than bidder's bona fide employees, a fee, percentage, commission or brokerage resulting from the award of any contract resulting from this bid. For breach or violation of this warranty, LISD shall have the right in addition to any other right or rights to cancel a resulting contract without liability and to deduct or otherwise recover the full amount of such fee, percentage, commission or brokerage.
  - b. The prices in this bid have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices, with any other bidder or potential bidder.
19. ERRORS OR OMISSIONS: The District is not responsible for any bidder's errors or omissions.
20. CONFIDENTIAL INFORMATION: If a bidder believes that a bid, proposal, offer, or specification contains information that should be withheld from public disclosure, a conspicuous statement advising LISD of the alleged confidentiality must be attached and provide detailed information on each and every page believed to contain confidential information. The District is bound by the Texas Public Information Act and shall in no event be liable to any bidder for release of information in accordance with the Texas Public Information Act.
21. ADDENDUM: In the event that any changes to this Bid Document occur subsequent to the posting or other delivery of the original Bid Document, the changes or corrections will be made by addendum. **It is your responsibility to obtain any addenda that pertains to this Bid Document.** LISD is no longer mailing the specifications or addenda.
22. Prices bid should be F.O.B. destination, inside delivery. All freight charges must be included in your bid pricing. If otherwise, state on Deviation/Compliance Signature form.
23. Delivery shall be made during normal school hours unless prior approval has been obtained from authorized District personnel.

24. All products bid must be new, unused, and in first-class condition, packaged in containers suitable for shipment and storage. If otherwise, state on Deviation/Compliance Signature form.

All electrical items must meet all applicable OSHA standards and regulations, and must bear the appropriate listing from US, FMRC, NEMA, or U L Laboratories.

Materials Safety Data Sheets (MSDS) on chemicals or any other products customarily requiring MSDS Sheets must be provided for each ordering department. MSDS Sheets must be delivered along with the shipment within the contract period. Additional MSDS Sheets must be provided in a timely manner at no charge upon request to the District.

25. Installation: The successful bidder shall provide the following services on the products bid at no additional cost to the District. If otherwise, state on Deviation/Compliance Signature form.

- a. Provide transportation of items to the facility.
- b. Place the items in the proper location within the facility.
- c. Uncrate and completely assemble (if otherwise, state on Deviation/Compliance Signature form).
- d. Provide adjustment by a trained installation mechanic.
- e. Remove all debris from site.

26. Any catalog, brand name, or manufacturer's reference used in the bid is **descriptive and not restrictive** and is intended to indicate type and quality desired. Bids on brands of like nature and quality will be considered. If bidding on other than referenced specifications, bid must show manufacturer, brand, model, etc. of product being offered. If other than brand(s) specified is offered, complete descriptive information of each article being bid should be included with the bid. If bidder takes no exception to the specification of referenced data, he will be required to furnish brand names, models, etc. as specified.

27. Samples, when requested, must be furnished at no cost to the District. Each sample, when requested, should be clearly marked with bidder's name and item number on the bid. **DO NOT ENCLOSE IN OR ATTACH BID TO SAMPLE.**

28. The District reserves the right to purchase or lease-purchase additional articles as listed on this bid subject to verification of the same or lower prices and conditions on bid.

29. **CONTRACT AND PURCHASE ORDERS:** Submitting a response to this Bid Document is an offer by bidder to contract with the Lewisville Independent School District based upon the Terms and Conditions and other information contained in this Bid Document. A proposal or bid does not become a contract with LISD unless and until the offer is accepted by the LISD (including approval by the LISD Board of Trustees if necessary) through (a) an Award Letter/Email sent to the bidder and put into effect by the issuance of a LISD Purchase Order(s) signed by an authorized representative of the LISD Purchasing Department; or (b) execution of a separate contract after acceptance by the LISD (including approval by the LISD Board of Trustees if necessary). If LISD and bidder enter into a contract by one of the methods discussed above, the following terms and conditions shall apply. If LISD and bidder do not enter into a contract as discussed above, these following terms and conditions shall not apply.

This contract shall collectively include (1) a separate written contract, if applicable, (2) the Terms and Conditions and the Specifications included in the proposal and any subsequent addenda thereto, (3) the bidder's signed proposal and any other information included with the proposal, (4) the bidder's Award Letter/Email, if applicable, (5) and any additional terms, conditions, or instructions contained in each individual Purchase Order, if applicable. The contract shall be interpreted by and governed under the law of the State of Texas and venue for any disputes shall be in Denton County.

30. **CONTRACT MODIFICATION:** No modification of this contract shall bind LISD unless a written contract amendment is executed by LISD and bidder.

31. If applicable, pricing and service modifications may be required in contract renewals to best fit the needs of LISD.

32. **PACKING AND SHIPPING:** (If applicable) vendor shall be responsible for industry standard packing which conforms to requirements of carrier's tariffs and ICC regulations. Containers must be clearly marked as to the purchase order number. All shipments are to be F.O.B. destination, freight prepaid, to Lewisville Independent

School District at the specific address on the purchase order. Delivery shall be made during normal working hours only, 8:00am to 3:00pm, unless approval for late delivery has been obtained.

33. NO REPLACEMENT OF DEFECTIVE TENDER: (If applicable) every tender of goods must fully comply with all the provisions of this contract as to time of delivery, quantity, assortment, quality, and the like. If a tender is made which does not fully conform, this shall constitute a breach and vendor shall not have the right to substitute a conforming tender.
34. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH: (If applicable) each installment or lot of this contract is dependent on every other installment or lot and delivery of non-conforming goods/services or a default of any nature under one installment or lot will impair the value of the whole contract and constitutes a breach of the contract as a whole.
35. GRATUITIES: LISD may, by written notice to the bidder, cancel this contract without liability to LISD if it is determined by LISD that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the bidder, or any agent, or representative of the bidder, to any officer or employee of the Lewisville Independent School District with a view toward securing a contract or an order or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such a contract or order. In the event this contract is canceled by LISD pursuant to this provision, LISD shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the bidder in providing such gratuities.
36. WARRANTIES: (If applicable) vendor warrants that all goods delivered under this contract will conform to the requirements of this contract (including all applicable descriptions, specifications, drawings, and samples), and will be free from defects in design and fit for the intended purposes. Any inspection or acceptance of the goods by buyer shall not alter or affect the obligations of vendor or the right of buyer under the foregoing warranties.
37. ASSIGNMENT-DELEGATION: No right or interest in this contract shall be assigned by bidder without the written permission of LISD, and no delegation of any duty of bidder shall be made without written permission of LISD. Any attempted assignment or delegation by bidder shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
38. ASSIGNMENT-CLAIMS: Bidder and the Lewisville Independent School District recognize that in actual economic practice overcharges resulting from anti-trust violations are borne by LISD. Therefore, bidder hereby assigns to the District the right to pursue any and all claims for such overcharges.
39. ADVERTISING: If awarded the contract, bidder shall not advertise or publish, without LISD's prior written consent, the fact that LISD has entered into this contract, except to the extent necessary to comply with proper requests for information as required by law.
40. TITLE AND RISK OF LOSS: (If applicable) the title and risk of loss of the goods shall not pass to the District until the District actually receives the goods at the point of delivery.
41. INSPECTION: (If applicable) all goods are subject to final inspection and acceptable by the District. Products/services failing to meet the requirements of this contract will be held at vendor's risk and may be returned to vendor. If so returned, the cost of transportation, unpacking, inspection, repackaging, reshipping, or other like expenses are the responsibility of the vendor.
42. LIENS: All goods delivered and labor performed under this contract shall be free of all liens, and if the District requests, a formal release of all liens will be delivered to the District.
43. INDEMNIFY: BIDDER AGREES TO INDEMNIFY AND HOLD THE DISTRICT HARMLESS FROM ANY DAMAGE OR EXPENSE WHATSOEVER RESULTING TO THE DISTRICT FROM ANY AND ALL CLAIMS AND DEMANDS ON ACCOUNT OF INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT IN CONNECTION WITH THE MANUFACTURE OF USE OF ANY PRODUCT INCLUDED IN THIS CONTRACT. UPON WRITTEN REQUESTS VENDOR WILL DEFEND, AT ITS OWN COST AND EXPENSE, ANY LEGAL ACTION OR SUIT AGAINST THE DISTRICT INVOLVING ANY SUCH ALLEGED PATENT INFRINGEMENT, AND WILL PAY AND SATISFY ANY AND ALL JUDGEMENTS OR DECREES RENDERED IN ANY SUCH LEGAL ACTIONS OR SUITS. BIDDER WILL INDEMNIFY LEWISVILLE INDEPENDENT SCHOOL DISTRICT AGAINST ALL CLAIMS FOR DAMAGES TO PERSONS OR PROPERTY RESULTING FROM DEFECTS IN MATERIALS OR WORKMANSHIP.

44. REMEDIES AND APPLICABLE LAWS: This contract shall be governed by Lewisville Independent School District policies and LISD and bidder shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Texas, except as otherwise provided in this contract or in statutes pertaining specifically to the State or School District. Whenever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this contract. This contract shall be governed by the laws of the State of Texas, and disputes pertaining to this contract may be brought only in the courts of the State of Texas in Denton County.
45. CONFLICT OF INTEREST: This contract is subject to cancellation by LISD if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of Lewisville Independent School District, is at any time while the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.
46. FORCE MAJEURE: Neither party shall be liable for its failure to fulfill or perform any term or condition of this contract if such fulfillment or performance is made illegal, impossible, or impracticable due to reasons of fire, strike, war, insurrection, riot, labor disputes, government restrictions, order of court, judge, or civil authority, national, state, or local emergency, acts of God, epidemic, pandemic, quarantine, restriction of social gatherings, extreme weather, flood, storm, terrorism, invasion, or other similar or dissimilar cause beyond a party's reasonable control (collectively, "force majeure event"), provided that the non-performing party shall provide notification of such inability to fulfill or perform any contractual term or condition to the other party as soon as reasonably possible after the occurrence of such force majeure event. In the event of such an occurrence, the time for performance of any contractual term or condition shall be (1) suspended, upon mutual agreement of both parties, until such time as the force majeure event is removed or (2) terminated at either party's election. If either party desires to terminate the contract, all paid deposits or advance payments, if applicable, for services not yet performed or products not yet received shall be fully refunded upon demand.
47. RIGHT TO ASSURANCE: Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he/she may demand that the other party give a written assurance of his/her intent to perform. In the event that demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
48. INTERPRETATION-PAROLE EVIDENCE: This contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this contract. Acceptance or acquiescence in a course of performance rendered under this contract shall not be relevant to determine the meaning of this contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to objection. Whenever a term defined by the Uniform Commercial Code is used in this contract, the definition contained in the Code is to control.
49. COMPLIANCE OF LAWS: The final contract must be in compliance with all federal laws and Texas laws and regulations and is subject to termination by the Lewisville Independent School District, including termination for non-availability of funding and for prepayment, without penalty.
50. CHOICE OF LAW: The parties hereby agree that this contract was negotiated, made and entered into in the State of Texas and under the laws of the State of Texas.
51. INFRINGEMENT: Bidder agrees to protect and defend Lewisville Independent School District from claims involving infringement.
52. SPECIFICATIONS: Specifications define the minimum acceptable standard.
53. REMEDIES FOR NON-PERFORMANCE OF CONTRACT AND TERMINATION OF CONTRACT FOR CAUSE: If the bidder cannot comply with the terms and conditions in fulfilling its contract as anticipated, the bidder must supply the same products or services contracted from other sources at the contract price. The bidder's refusal or delay in satisfying this provision will constitute a material breach of contract, whereupon the LISD may terminate the contract for cause as provided herein.

If any delay or failure of performance is caused by a Force Majeure event as described in Section 46 of these Terms and Conditions, the LISD may, in its sole discretion, terminate this contract in whole or part.

Except as otherwise provided herein, this contract may be terminated for cause in whole or in part by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of

the terminating party; provided that no such termination for cause may be implemented unless and until the other party is given (1) at least ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate for cause, and (2) an opportunity for consultation with the terminating party, followed by a reasonable opportunity, of not more than ten (10) working days, to rectify the defects in products or performance, prior to such termination.

Valid causes for termination of this contract will include, but are not limited to:

- (a) The bidder's failure to adhere to any of the provisions of the Terms and Conditions contained in this proposal.
- (b) The bidder delivering any product(s) that fails to meet the Specifications relating to the awarded product(s).
- (c) The bidder delivering any substitution(s) of product(s) different than those originally bid and awarded without the prior written approval of LISD.
- (d) Bidder's noncompliance with any additional terms, conditions, or instructions contained in a separate contract or contained in any individual Purchase Order issued by the LISD.

54. ORDER OF PRECEDENCE: In the event of conflict between documents, the following order of precedence shall prevail: 1) The constitution, statutes, and laws of the State of Texas, 2) LISD issued additional signed addendums/agreements signed by both parties and pursuant to the proposal, 3) LISD's purchase order, 4) Vendor's attribute and line item responses to the proposal request, 5) The proposal request, 6) All attachments provided by LISD in the proposal request or any additional references by LISD, and 7) All additional attachments to the proposal response by the responding Vendor. The proposal or any resulting agreement may not be modified, amended or supplemented except by written agreement signed by an authorized representative of each party. Lewisville ISD Board Policy dictates the authorized representative for Lewisville ISD.

55. EXTENSION/TERMINATION CLAUSE: This contract shall be as listed in the Bid Notes and/or Length of Contract paragraph, provided however, at the sole option of the District, upon the District giving bidder written notice of the intention to renew not later than the expiration of the then current term, provided that at the time the District gives written notice of renewal the bidder is not in default and the contract has not been terminated.

If the bidder does not intend to renew the contract, bidder shall provide the District with written notice via certified mail (return receipt requested) at least one-hundred twenty (120) days prior to the expiration of the then current term.

Negotiations for additional terms and price restructuring shall be completed no later than thirty (30) days prior to renewal date unless approved by the District. Price negotiations may be negotiated to prices below the current prices.

The District has the right to terminate this contract for convenience, at any time, without penalty.

**DOCUMENT 00 11 19**

**REQUEST FOR COMPETITIVE SEALED PROPOSALS**

Competitive Sealed Proposals for the work identified below in accordance with Proposal Documents and addenda as may be issued prior to date of proposal opening will be received by the Lewisville Independent School District, until proposal closing date and time, as identified below. Proposals from Offerors will then be opened in public and read aloud.

**OWNER:** Lewisville Independent School District  
Procurement and Contracts Department  
Lewisville Administrative Center  
Room 220  
1565 A W. Main  
Lewisville, TX 75067

**ARCHITECT:** VLK Architects, Inc.  
5801 Tennyson Parkway, Suite 100  
Plano, TX 75024  
(972) 265-1885

**PROJECT:** Marcus H.S. Food Service Equipment Replacements and Renovations  
Lewisville Independent School District  
CSP #F1071-23

**BUDGET:** \$600,000.00

**PRE-PROPOSAL** None

**PROPOSAL DATE AND TIME:** Tuesday October 17, 2023, 2:00 PM

**LOCATION OF PROPOSAL OPENING:** Lewisville Independent School District  
Administration Center, Procurement and Contracts Department  
1565A W. Main Street, Room 220  
Lewisville, TX 75067

**QUESTIONS:** October 10, 2023 and 12:00 PM  
**ANSWERS:** October 10, 2023 through October 12, 2023 at 4 PM.

Proposal Documents will be available after September 29, 2023. Qualified Offerors (General Contractors) may obtain a free electronic copy of the Drawings and Project Manual.

A link to the digital copies of the drawings and project manual may be obtained from Kent Leach, VLK Architects, Inc., 5801 Tennyson Parkway, Suite 100, Plano, TX 75024, e-mail: [kleach@vlkarchitects.com](mailto:kleach@vlkarchitects.com). A link to the digital copy of the addenda will be e-mailed to the current list of plan holders.

In addition, proposal documents can be reviewed at the following locations:

iSqFt, a ConstructConnect™ company  
<https://www.isqft.com>

ConstructConnect  
<https://www.constructconnect.com/>

Dodge Data & Analytics  
[www.construction.com](http://www.construction.com)

Marcus H.S. Food Service Equipment Replacements and Renovations  
Lewisville ISD  
Lewisville, Texas

All proposals must be in the hands of the Owner no later than the time specified above. Please seal all proposals in duplicate in an envelope with the following information on the face of the envelope.

Name of Offeror (General Contractor)  
**Marcus H.S. Food Service Equipment Replacements and Renovations**  
Lewisville Independent School District

The Owner reserves the right to reject any and all proposals and to waive any irregularities in the Competitive Sealed Proposal process. No proposal shall be withdrawn within 45 days after the proposal opening without the specific consent of the Owner.

**PROPOSAL BOND:** A Proposal Bond from a bonding company acceptable to the Owner or a certified check in an amount equal to 5 percent (5%) of the greatest amount of proposal must accompany each offeror's proposal.

**PAYMENT BOND AND PERFORMANCE BOND:** A Payment Bond and Performance Bond, each in an amount equal to 100 percent (100%) of the Contract Sum conditioned upon the faithful performance of the Contract will be required. Please note that all bonding companies presented must be acceptable to the Owner.

The prevailing rates of wages are the minimums that must be paid in conformance with all applicable laws of the State of Texas.

All Offerors submitting a proposal are encouraged to attend the proposal opening. Subcontractors and suppliers intending to submit proposals to Construction Offerors are required to prepare their proposals based on a complete set of proposal documents. If after reviewing the complete set of proposal documents, Subcontractors and supplier offerors desire to purchase individual drawings and specification sections for their proposal convenience, they may do so by ordering the specific drawings and specifications directly from the reproduction company. Each offeror purchasing a partial set of proposal documents is responsible for determining exactly which documents he requires and is responsible for all costs associated with printing and delivery. Subcontractors and suppliers exercising this option must agree to do so on the basis that 1) all documents shall be returned to the Architect, without refund, after submitting a proposal and 2) documents shall not be used on other projects. Successful Subcontractors and supplier offerors may retain their Proposal Documents until completion of the construction.

All Offerors submitting a proposal are encouraged to visit the site.

END OF DOCUMENT

DOCUMENT 00 21 16

INSTRUCTIONS TO PROPOSERS

PART 1 - GENERAL

1.1 DOCUMENTS

- A. Reference DOCUMENT 00 11 19 - REQUEST FOR COMPETITIVE SEALED PROPOSALS for instructions on attaining Proposal Documents.

1.2 DEFINITIONS

- A. All definitions set forth in the General Conditions of the Contract for Construction, AIA Document A201, 2017 Edition and Section 01 42 16 - Definitions, are applicable to these Instructions to Proposers.
- B. Proposal documents include the Request for Proposals, Instructions to Proposers, the Proposal Forms and the proposed Contract Documents including Addenda issued prior to receipt of proposals.
- C. Addenda are written or graphic instruments issued prior to the execution of the Contract which modify or interpret the proposal documents, including Drawings and Specifications, by additions, deletions, clarifications or corrections. Addenda will become part of the Contract Documents when the Construction Contract is executed.
- D. "VLK Architects, Inc." will be hereafter referred to in this Project Manual as "Architect" and correspondence shall be addressed to: 5801 Tennyson Parkway, Suite 100, Plano, TX 75024.

1.3 EXAMINATION OF DOCUMENTS AND SITE

- A. Each proposer, by making their Proposal, represents that they have read and understand the Proposal Documents.
- B. Each proposer, by making their Proposal, represents that they have visited the site, performed investigations and verifications as necessary and familiarized themselves with the local conditions under which the Work is to be performed and will be responsible for errors in their proposal resulting from their failure to do so.
- C. Each proposer by making their proposal represents that their proposal is based upon the materials, systems and equipment required by the Proposal Documents without exception.

1.4 QUESTIONS

- A. Proposers shall submit questions about the Proposal Documents to the Architect in writing not later than ten days prior to the date of receipt of the proposals. Replies will be issued to proposers as an addendum to the Proposal Documents and shall become a part of the Contract. The Architect and Owner will not be responsible for oral clarification.

1.5 SUBSTITUTIONS

- A. Each proposer represents by submitting their proposal that their proposal is based upon the materials and equipment described in the proposal documents.

1.6 PROPOSAL SECURITY

- A. A certified check; cashier's check; signed, dated and embossed proposal bond in an amount equal to 5% of the largest possible total proposal and made payable to the Owner must accompany each proposal. This shall be considered as the amount of liquidated damages which the Owner will sustain by failure or refusal of the proposer to execute and deliver the contract and the statutory performance and payment bonds should the Contract be awarded him.

- B. If the proposer defaults in executing and delivering the Contract and the statutory performance and payment bonds within ten days after written notification from the Architect of the award of Contract to him, then the check or proposal bond shall become the property of the Owner, not as a penalty, but as liquidated damages, as payment for damages due to excess costs, delay and other inconveniences.
- C. Proposals shall remain in effect for a period of 30 days after the time established for receipt thereof, and during this time the Owner may accept or reject the proposals as he so elects. If the proposal is not accepted within 30 days after the time set for submission of proposals, or if the successful proposer executes and delivers said contract and the performance and payment bonds, then the check or proposal bond will be returned.
- D. Proposal Bond shall be executed by a Surety Company that is:
  - 1. Approved by the school district, and duly authorized and admitted to do business in the State of Texas as determined by the State Board of Insurance.
  - 2. Listed by the United States Department of the Treasury in that issue of the "Federal Register" covering the date on which the bond was executed and the date that Surety Company has obtained reinsurance, if applicable, from a reinsurer that is authorized and admitted as a reinsurer in this state and is the holder of a certificate of authority from the United States secretary of the treasury.
- E. Facsimiles or copies of Proposal Bond will not be acceptable. Submit fully executed originals of required documents.

#### 1.7 STATUTORY PERFORMANCE BOND AND STATUTORY LABOR AND MATERIAL PAYMENT BOND

- A. A Statutory Performance Bond and a Statutory Labor and Material Payment Bond will be required of the successful proposer and shall be executed by a surety company acceptable to the Owner and authorized to do business in the State of Texas. Each bond shall be in an amount equal to one hundred percent (100%) of the contract price. The Performance Bond and the Labor and Material Payment Bond may be in one or separate instruments in accord with local law and are to be delivered to the Owner no later than the date of execution of the contract. Failure or neglecting to deliver said bonds, as specified, shall be considered as having abandoned the contract and the proposal security will be retained as liquidated damages.
- B. Bonds shall be executed by a Surety Company that is:
  - 1. Approved by the school district, and duly authorized and admitted to do business in the State of Texas as determined by the State Board of Insurance.
  - 2. Listed by the United States Department of the Treasury in that issue of the "Federal Register" covering the date on which the bond was executed and the date that Surety Company has obtained reinsurance, if applicable, from a reinsurer that is authorized and admitted as a reinsurer in this state and is the holder of a certificate of authority from the United States secretary of the treasury.

#### 1.8 SUBMITTAL

- A. Submit proposals in accordance with the Request for Proposals. Enclose proposal in an opaque, sealed envelope. Clearly mark on the outside of the proposal envelope:
  - 1. Project name
  - 2. Name of proposer
- B. Preparation of Proposals: Proposals shall be submitted on unaltered proposal forms furnished by the Architect. Fill in all blank spaces. If there are entries (blank spaces) on the proposal form which do not apply to a particular proposer, these entries shall be marked "N.A." (Not Applicable) by the proposer. No proposals will be considered that are amended or are qualified with conditional clauses, alterations, items not called for in the proposal, or irregularities of any kind which, in the Owner's opinion, may disqualify the proposer.
- C. Each proposer shall submit **one original, one duplicate copy, and one digital copy saved on a USB Flash Drive of each of the following.** All shall be submitted in a single sealed envelope. **Electronic signatures are acceptable.:**
  - 1. Proposal Form
  - 2. **A completed and up-to-date AIA Form A305 Contractor's Qualification Statement**
  - 3. HB 89/SB 252 Certification Form (Reference form attached to the end of this Section)
  - 4. Non-collusion Affidavit
  - 5. Felony Conviction Notice (Reference form attached to the end of this Section)
  - 6. Certification of Criminal History Record Information Review by Contractor-Employer
  - 7. Conflict-of-interest Questionnaire

8. Additional Owner Requirements (Reference form attached to the end of this Section)
9. 1295 Certificate of Interested Parties (This form must be completed online, printed and signed. (Reference form attached to the end of this Section)
10. Any other information that responds to the Selection Criteria listed.

#### 1.9 MODIFICATION AND WITHDRAWAL

- A. No proposal may be changed, amended or modified after submittal. Proposers may withdraw proposals prior to proposal opening.

#### 1.10 DETERMINATION OF SUCCESSFUL RESPONDENT AND AWARD OF CONTRACT

- A. In determining the Selected Offeror, the Owner will evaluate the information derived from the Offeror's (Contractor's) Qualification Statement required herein, the information submitted on the Proposal Form, and other selection criteria including the following Selection Criteria:

##### **Final Evaluation Statement – Points**

Final evaluations of this proposal will be based on the Texas Educational Code §44.031(b) and Texas Government Code 2269. Evaluation of pricing will be based on Unit Price value to be submitted on the "BID FORM".

##### **Evaluation criteria for this CSP will be per the following:**

Purchase Price - 50 Points  
Reputation of the vendor and vendor's goods or services - 10 Points  
Quality of the vendor's goods or services - 18 Points  
Extent to which the goods or services meet the district's needs - 10 Points  
Vendor's past relationship with the district - 2 Points  
Other relevant factors specifically listed in this proposal - 10 points  
**Total Points - 100**

- B. LISD reserves the right to negotiate with any or all respondents and accept or reject any and/or all proposals, to waive any formalities and/or irregularities and to award in the best interest of the District. The Board of Trustees reserves the right to reject any/or all proposals, award to one or multiple Vendors by line item, section, or in any manner determined to be in the best interest or value to Lewisville Independent School District. By submitting a proposal or response to this solicitation, the Vendor expressly agrees to waive any claim it has or may have against the District, its directors, officers, its trustees, employees, and/or agents arising out of or in connection with (1) the administration, evaluation, recommendation of any proposal; (2) any requirements under the solicitation, proposal package, or related documents; (3) the rejection of any proposal or any part of any proposal; and/or (4) the award, if any.
- C. The District will make such investigations as it deems necessary to determine the ability of the offeror to perform the Work, and the offeror shall furnish all such information and data for this purpose as may be requested. The District reserves the right to reject any proposal if the evidence submitted by, or investigation of, such offeror fails to satisfy the District that such offeror is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.
- D. The District reserves the right to reject any or all proposals and to waive any formalities or irregularities and to make the award of the contract in the best interest of the District.

#### 1.11 EXECUTION OF CONTRACT

- A. The Owner reserves the right to accept any proposal, to reject any and all proposals, or to negotiate contract terms with the various proposers, when such is deemed by the Owner to be in their best interest.
- B. Notwithstanding delays in the preparation and execution of the formal contract agreement, each proposer shall be prepared, upon written notice of proposal acceptance, to commence work on or before a date stipulated in an official written order of the Owner to proceed.
- C. The accepted proposer shall assist and cooperate with the Owner in preparing the formal contract agreement, and within 5 days following its presentation shall execute same and return it to the Owner.

- D. Form for the contract agreement will be AIA Document A101, Standard Form of Agreement Between Owner and Contractor, Stipulated Sum, 2017 Edition.
- E. Proposals shall be submitted on unaltered proposal forms furnished by the Architect. Fill in blank spaces. If there are entries (blank spaces) on the proposal form which do not apply to a particular proposer, these entries shall be marked "N.A." (Not Applicable) by that proposer. No proposals will be considered that are amended or are qualified with conditional clauses, alterations, items not called for in the proposal, or irregularities which, in the Owner's opinion, may disqualify the proposer.
- F. By submitting a response, the Vendor represents that the person responding is authorized to enter into the resulting Agreement on its behalf and is providing an offer to contract. This proposal request and its attachments, the Vendor's response and response attachments, any additional amendments/agreements executed by both parties pursuant to this proposal request or any resulting agreement, and the LISD Purchase Order constitute the entire Agreement. Throughout the Agreement Term, Contracts may be put into effect by means of a LISD purchase order(s) executed by the District. Transfer/Assignment by Vendor is prohibited unless agreed upon in writing by the LISD Procurement and Contracts Department.

The Terms and Conditions of the Agreement are provided by the following, and in the event of any conflict, the following precedence shall prevail:

- 1) The constitution, statutes, and laws of the State of Texas.
- 2) LISD issued additional signed addendums/agreements signed by both parties and pursuant to this proposal;
- 3) LISD's purchase order;
- 4) Vendor's attribute and line item responses to this proposal request;
- 5) This proposal request;
- 6) All attachments provided by LISD in this proposal request or any additional references by LISD;
- 7) All additional attachments, documents, or agreement provided by the responding Vendor.

This proposal or any resulting agreement may not be modified, amended or supplemented except by written agreement signed by an authorized representative of each party. Lewisville ISD Board Policy dictates the authorized representative for Lewisville ISD.

#### 1.12 TIME OF COMPLETION AND LIQUIDATED DAMAGES

- A. The contract date will be established as the number of consecutive calendar days as set out on the proposal form from the "Notice-to-proceed" date issued by the Owner.
- B. Failure of the Contractor to complete the Work by the contract date will result in damages being sustained by the Owner. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Due consideration will be given to delays falling within 8.3 of the General Conditions.
- C. The Contractor will pay the Owner the amount indicated on the Proposal Form and in the General Conditions for each calendar day of delay in finishing the Work in excess of time specified for completion, plus authorized time extensions. Execution of the Contract under these specifications shall constitute agreement by the Owner and Contractor that the amount indicated is the minimum value of the costs and actual damage caused by failure of the Contractor to Substantially Complete the Work within the allotted time, that such sum is Liquidated Damages and shall not be construed as a penalty, and that such sum may be deducted from payments due the Contractor if such delay occurs.

1.13 SALES TAX EXEMPTION

- A. The Owner qualifies for exemption from State and Local Sales Taxes as set forth in the Supplementary Conditions.

END OF DOCUMENT

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**FEDERAL REQUIREMENTS**

In accordance with 2 C.F.R. § 200.327 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (sometimes referred to as the new “EDGAR”), this Addendum ("Addendum") is proof of the vendor’s willingness and ability to comply with certain requirements which may be applicable to specific Lewisville Independent School District (“LISD”) purchases using federal grant funds. The following certifications and provisions are required and apply when LISD expends federal funds for any contract resulting from this procurement process. In the event of a conflict or inconsistency between the following terms and conditions and any provision of any contract, agreement, or Purchase Order, the following terms and conditions shall control. Accordingly, the parties agree that the following terms and conditions apply to the Contract/PO between LISD and vendor (“Vendor”) in all situations where Vendor has been paid or will be paid with federal funds.

This Addendum amends and is hereby incorporated into an existing agreement between the parties as follows:

**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS – APPENDIX II TO 2 CFR PART 200**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

**Debarment and Suspension Certification**

Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

\_\_\_\_\_ Agree \_\_\_\_\_ Do Not Agree \_\_\_\_\_ Not Applicable - Please provide reason  
(Required: Check only one)

**If Not Applicable, Please provide reason**

\_\_\_\_\_

**Termination For Cause And For Convenience by the grantee or subgrantee (All contracts in excess of \$10,000)**

All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

Pursuant to Federal Rule above, when federal funds are expended by LISD, LISD reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. LISD reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days' notice in writing to the awarded vendor. The vendor would be compensated for work performed and goods procured as of the termination date if for the convenience of the LISD. Any award under this procurement process is not exclusive and the District reserves the right to purchase goods and services from other vendors when it is in the best interest of the District.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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**Byrd Anti-Lobbying Amendment**

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

### **Equal Employment Opportunity**

Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### **Contracts for more than the Simplified Acquisition Threshold \$250,000**

Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certify that during the term of an award by LISD resulting from this procurement process, the vendor will be in compliance.

Does vendor agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### **Clean Air and Water Act**

Clean Air and Water Act Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-

1387). Violations must be reported to the Federal awarding agency and Regional Office of the Environmental Protection Agency (EPA).

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### **Contractor's Certificate Regarding Cooperative Agreement**

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302-6305:

(a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal Government or pass-through entity's direct benefit or use;

(b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

(c) The term does not include:

(1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a;

or

(2) An agreement that provides only:

(i) Direct United States Government cash assistance to an individual

(ii) A subsidy

(iii) A loan

(iv) A loan guarantee, or

(v) Insurance.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### **Davis-Bacon Act & Copeland Anti-Kickback Act**

Davis-Bacon Act & Copeland Anti-Kickback Act Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

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### **Contract Work Hours and Safety Standards Act**

Contract Work Hours and Safety Standards Act Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704

are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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#### **Rights to Inventions Made Under a Contract or Agreement (Federal and State Regulation**

Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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#### **Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms**

In accordance of 2 CFR 200.321, Small and Minority Firms, Women's Business Enterprises, and Labor Surplus Area Firms (also know as "MWBE" and "HUB") are encouraged to indicate its HUB Certification status when responding to this proposal invitation.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### Buy American Provision

Buy American Provision The District/State agency/Territory participates in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A 'domestic commodity or product' is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21(d).

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a provision, Section 12(n) to the National School Lunch Act (NSLA) (42 USC 1760(n)), requiring school food authorities (SFAs) to purchase, to the maximum extent practicable, domestic commodities or products. This Buy American provision supports the mission of the Child Nutrition Programs, which is to serve children nutritious meals and support American agriculture.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

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### Contractor's Certificate Regarding Worker's Compensation

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.

By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of work of this contract.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

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### **Contractor's Certificate Regarding Drug-Free Workplace**

Contractor's Certificate Regarding Drug-Free Workplace This Drug-Free Workplace Certification form is required from all successful Proposers pursuant to the requirements mandated by Government Code sections 8350 et. seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by performing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the CONTRACTOR or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

Pursuant to Government Code section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- 1) Publishing a statement, notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace, and specifying actions which will be taken against employees for violations of the prohibition;
- 2) Establishing a drug-free awareness program to inform employees about all of the following:
  - a) The dangers of drug abuse in the workplace;
  - b) The person's or organization's policy of maintaining a drug-free workplace;
  - c) The availability of drug counseling, rehabilitation and employee-assistance programs; and
  - d) The penalties that may be imposed upon employees for drug abuse violations
- 3) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will (a) publish a statement notifying employees concerning the prohibition of controlled substance at the workplace, (b) establish a drug-free awareness program, and (c) require each employee engaged in the performance of the contact be given a copy of the statement required by section 8355(a) and require such employee agree to abide by the terms of that statement.

I also understand that if the DISTRICT determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of sections 8350 et. seq.

I acknowledge that I am aware of the provisions of Government Code sections 8350 et. seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

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#### **Contractor's Certificate Regarding Alcoholic Beverage and Tobacco-Free Campus Policy**

The CONTRACTOR agrees that it will abide by and implement the DISTRICT's Alcoholic Beverage and Tobacco-Free Campus Policy, which prohibits the use of alcoholic beverages and tobacco products, at any time, on DISTRICT-owned or leased buildings, on DISTRICT property and in DISTRICT vehicles. The CONTRACTOR shall procure signs stating "ALCOHOLIC BEVERAGE AND TOBACCO USE IS PROHIBITED" and shall ensure that these signs are prominently displayed in all entrances to school property at all time

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

---

#### **E-Verify Program**

Employment Eligibility Verification: (as amended at 74 FR 2731) requires, as applicable, a condition for the award of any Federal contract at \$250,000 or greater, for Vendor to certify they are enrolled in, and is currently participating in, E-Verify or any other equivalent electronic

verification of work authorization program operated by the U.S. Department of Homeland Security and does not knowingly employ any person who is an unauthorized alien in conjunction with the contracted services. A breach in compliance with immigration laws and regulations shall be deemed a material breach of the contract and may be subject to penalties up to and including termination of the contract.

#### Declaration

1. I have reviewed 48 CFR 52.222-54 and have sufficient knowledge of the personnel practices of the Business Entity to execute this Declaration on behalf of the Business Entity.
2. The Business Entity has legal counsel and has had the opportunity to consult that counsel, and accordingly it has not relied on the Governmental Entity's advice or counsel in complying with the legal requirements addressed in this Declaration.
3. The Business Entity is enrolled in and uses the federal E-Verify program to verify the eligibility to work of all newly hired employees of the Business Entity. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: [http:// www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify).
4. The Business Entity does not knowingly employ applicants or retain in its employ a person whose immigration status makes them ineligible to work for the Business Entity.
5. The Business Entity has verified that any subcontractors utilized to deliver services to the Governmental Entity through the Business Entity's contract with the Governmental Entity use the E-Verify system and do not knowingly employ persons whose immigration status makes them ineligible to work for the subcontractor.
6. As an authorized agent of the Business Entity, I acknowledge notice that 48 CFR 52.222-54 requires that the Business Entity's compliance with the terms of this Declaration be incorporated into the Business Entity's contract for services with the Governmental Entity, and if the Business Entity fails to remedy a violation of this provision of its contract for services with the Governmental Entity within the thirty (30) day period prescribed in 48 CFR 52.222-54, violation of this term of that contract for services requires termination of that contract and that the Business Entity is liable to the Governmental Entity for actual damages.

I declare under penalty of perjury, a Class D Felony, that the foregoing representations are true.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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**Prohibition on certain telecommunications and video surveillance services or equipment**

Prohibition on certain telecommunications and video surveillance services or equipment

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

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

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

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

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also §200.471

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### **Domestic Preferences for procurements**

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

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

(c) Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy American preferences set forth in 2 CFR part 184.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### **Intangible Property**

Intangible Property All contracts paid from State or Federal grants must retain copyright for the State and Federal government (if a federally funded contract) unless otherwise negotiated in writing with the State and Federal government. Pursuant to the provisions in 2 CFR § 200.315, title to intangible property vests in the school district and/or purchasing cooperative, as long as such property is used for authorized purposes. However, the State and Federal awarding

agency reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes when authorized to do so.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

---

### **Procurement of Recovered Materials**

For Cooperative Member purchases utilizing Federal funds, Proposer certified that it will comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and that it will provide such information and certifications as a Cooperative Member may require confirming estimates and otherwise complying.

Section 6002, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000, requires procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines, requires contractors to maximize energy and resource recovery by using recycled materials and/or recycling waste products when reasonable, cost appropriate, and available.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

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### **Profit as a Separate Element**

For purchases using federal funds in excess of \$150,000, a Cooperative Member may be required to negotiate profit as a separate element of the price. [See, 2 CFR 200.323(b).] When

required by a Cooperative Member, Proposer agrees and certifies that it will to provide information and negotiate with the Cooperative Member regarding profit as a separate element of the price for a particular purchase. However, Proposer agrees that the total price, including profit, charged by Proposer to the Cooperative Member shall not exceed the awarded pricing, including any applicable discount, under Proposer's Cooperative Contract. Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

### **Record Retention Requirements**

Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all goods and/or services provided by Vendor to the school district and/or purchasing cooperative, under this Agreement. These records and accounts shall be retained by Vendor and made available for review and copying by school district and/or purchasing cooperative for a period of not less than five (5) years from the date of completion of the services, receipt of goods, or the date of the receipt by school district and/or purchasing cooperative, of Vendor's final invoice or claim for payment in connection with this Agreement, whichever is later. If an audit or compliance review has been announced, Vendor shall retain its records and accounts until such audit or compliance review has been completed. When federal funds are expended by school district and/or purchasing cooperative, Vendor further certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

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### **Compliance with Anti-Trust Laws**

Compliance with Anti-Trust Laws Pursuant to Texas Government Code § 2155.005, I affirm under penalty of perjury of the laws of the State of Texas that: 1. I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below; 2. In connection with this bid, neither I nor any representatives of the Company have violated any provision of the Texas Antitrust laws codified in Tex. Bus. & Comm. Code Chapter 15; 3. In connection with this bid, neither I nor any representative of the Company have violated any federal antitrust law; and 4. Neither I nor any

representatives of the Company have directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### **Solid Waste Disposal Act - 2 CFR Ch. II (1–1–15 Edition) § 200.323 Procurement of recovered material**

Solid Waste Disposal Act - 2 CFR Ch. II (1–1–15 Edition) § 200.323 Procurement of recovered materials Pursuant to Federal Rule (H) above, a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### **Civil Rights/Discrimination (Federal and State Requirement)**

It is the policy of the school district and/or Child Nutrition purchasing cooperative not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), color, disability national origin, race, or gender. Vendor further agrees that every subcontractor entered into for the performance of this Agreement shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Agreement.

Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Program Activities: Applicable to contracts using Federal funds - Prohibits the discrimination to all eligible program participants on a basis of age, color, disability, national origin, race, and gender.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### **Energy Policy and Conservation Act**

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871). ~~~ This is your electronic signature.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does vendor so certify?

Yes  No  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### Health and Safety Certifications, Licensing, or Regulations

Pursuant to Federal Rule (J) above, when federal funds are expended by LISD, LISD requires proposer to certify that during the term of an award by the LISD resulting for this procurement process the vendor will be in compliance with mandatory standards and policies relating to observance of applicable local, state, or federal health and safety certifications, licensing, or regulations.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### Prohibited Employment Assistance

Vendor certifies and agrees that it shall not assist an employee, contractor, or agent of the purchasing cooperative and/or of any other school district in obtaining a new job if the Vendor knows, or has probable cause to believe, that the individual engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personnel file does not violate this prohibition.

Pursuant to Federal Law, when federal funds are expended by LISD, LISD requires that the proposer certifies that during the term of an award by LISD resulting for this procurement process the vendor will be in compliance.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason

(Required: Check only one)

If Not Applicable, please provide reason

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### 2 CFR 200 EDGAR FEDERAL AWARD COMPLIANCE

Vendor agrees, that during the length of this contract, all policies and procedures involving the expenditure of federal funds will be compliant with the new Education Department General Administration Guideline (EDGAR) 2 CFR 200, which have been listed above. In the event that the vendor is no longer able to comply with the Federal regulations agreed to in this RFP, the vendor will notify Lewisville ISD immediately.

Does Vendor Agree?

Agree  Do Not Agree  Not Applicable - Please provide reason  
(Required: Check only one)

If Not Applicable, please provide reason

---

**CERTIFICATE OF INTERESTED PARTIES** **EXAMPLE ONLY** **FORM 1295**

Complete form at: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

**OFFICE USE ONLY**

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

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

**Your Company/Business Entity Name, City, State, Country**

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

**Lewisville ISD**

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

**Solicitation/Contract Number and Title**

Example RFP 2473-16 Teaching Supplies, Materials, and Software

| 4 Name of Interested Party   | City, State, Country (place of business) | Nature of Interest (check applicable) |              |
|--|--|---------------------------------------|--------------|
|  |  | Controlling                           | Intermediary |
| <b>Person who has controlling interest in a business entity</b>  |  |                                       |              |
| <b>Controlling Interest –</b>  |  |                                       |              |
| (a) has an ownership interest or participating interest in business entity by virtue of units, percentage, shares, stocks, or otherwise that exceeds 10%.  |  |                                       |              |
| (b) is a member of the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or  |  |                                       |              |
| (c) serves as an officer of a business entity that has four or fewer officers, or serves as one of the four officers most highly compensated by a business entity that has more than four officers. Subsection (c) of this section does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries. |  |                                       |              |
| <b>Intermediary Interest</b>   |  |                                       |              |
| (a) receives compensation from the business entity for the person's participation;   |  |                                       |              |
| (b) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and  |  |                                       |              |
| (c) is not an employee of the business entity or of an entity with a controlling interest in the business entity.  |  |                                       |              |

**5 Check only if there is NO Interested Party.**  **If #4 is blank, check box**

**6 UNSWORN DECLARATION.** Please complete and sign Box 6

My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

My address is \_\_\_\_\_ (street), \_\_\_\_\_ (city), \_\_\_\_\_ (state), \_\_\_\_\_ (zip code), \_\_\_\_\_ (country).

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

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
 (month) (year)

\_\_\_\_\_  
 Signature of authorized agent of contracting business entity  
 (Declarant)

**ADD ADDITIONAL PAGES AS NECESSARY**



FORM N

**COMPLIANCE WITH HOUSE BILL 89 AND SENATE BILL 252**

**PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL (HB 89)**

Pursuant to Chapter 2270 of the Texas Government Code, Chapter 808, paragraph 227.001, the Proposer verifies that it (1) does not boycott Israel and (2) will not boycott Israel during the term of this contract or any extensions thereto. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli controlled territory, but does not include an action made for ordinary business purposes.

**PROHIBITION ON CONTRACTS WITH CERTAIN COMPANIES (SB 252)**

The Proposer verifies that neither the company, nor any subsidiaries, nor entities under common control, are included in or identified on a list maintained by the Texas Comptroller's Office as a "terrorist organization".

The undersigned acknowledges that if awarded this contract they will comply with the requirements on House Bill 89 and Senate Bill 252 above stated.

Firm's Name: \_\_\_\_\_

Name of Authorized Company Official: \_\_\_\_\_  
**(Typed or Printed)**

Title of Authorized Company Official: \_\_\_\_\_  
**(Typed or Printed)**

Signature of Authorized Company Official: \_\_\_\_\_

Date Signed: \_\_\_\_\_



DOCUMENT 00 42 00

PROPOSAL FORM

MARCUS H.S. FOOD SERVICE EQUIPMENT REPLACEMENTS AND RENOVATIONS  
LEWISVILLE INDEPENDENT SCHOOL DISTRICT  
LEWISVILLE, TEXAS  
CSP #F1071-23

PROPOSAL OF: \_\_\_\_\_  
(Name) (Date)

TO: Mark Grossman, Senior Buyer  
Lewisville Independent School District  
Procurement and Contracts Department  
Lewisville ISD Administrative Center  
Room 220  
1565A W. Main Street  
Lewisville, TX 75029

Dear Sir/Madam:

Having examined the drawings, project manual, and related documents and having inspected the site of proposed Work, I (we) agree to furnish all labor, materials, and to perform all work described in the specifications and shown on the drawings for the sum of:

BASE PROPOSAL: For complete construction, including General, Mechanical, Plumbing, and Electrical Work, for the sum of:

\_\_\_\_\_ DOLLARS  
(\$\_\_\_\_\_).

ALLOWANCES: The above base proposal includes all allowances listed in SECTION 01 21 00 - ALLOWANCES.

ALTERNATES (Voluntary):

Alternate No. 1: For Providing \_\_\_\_\_, add to the base proposal the sum of:

\_\_\_\_\_ DOLLARS  
(\$\_\_\_\_\_).

Alternate No. 2: For providing \_\_\_\_\_, add to the base proposal the sum of:

\_\_\_\_\_ DOLLARS  
(\$\_\_\_\_\_).

Alternate No. 3: For providing \_\_\_\_\_, (add to) (deduct from) the base proposal the sum of:

\_\_\_\_\_ DOLLARS

(ADD OR DEDUCT \$ \_\_\_\_\_;  
bidders shall cross-out term that does not apply).

NOTE: Amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

UNIT PRICES: NA

The undersigned agrees, if this proposal is accepted, to commence work on or before a date to be established in the written "Notice-to-Proceed" of the Owner and to attain substantial completion of all Work within 280 consecutive calendar days, subject to extensions of time as described in Article 8.3 of the General Conditions.

The undersigned further agrees that, from the compensation otherwise to be paid, the Owner may retain the single sum of \$500.00 for each calendar day after the substantial completion date that the Work remains incomplete, which sum is agreed upon as the proper measure of liquidated damages which the Owner will sustain per diem by the failure of the undersigned to complete the Work at the time stipulated in the contract. This sum is not to be construed in any sense as a penalty.

I (we) acknowledge receipt of the following addenda (should they be required):

|                            |                            |
|----------------------------|----------------------------|
| Addendum No. 1 Dated _____ | Addendum No. 4 Dated _____ |
| Addendum No. 2 Dated _____ | Addendum No. 5 Dated _____ |
| Addendum No. 3 Dated _____ | Addendum No. 6 Dated _____ |

Upon receipt of notice of acceptance of this proposal within 30 days after the opening of proposals, I (we) agree to execute formal contract forms, acceptable surety bonds, and required insurance certificates within five days of receipt of the Contract.

\_\_\_\_\_  
Respectfully submitted, (Signature)

\_\_\_\_\_  
By (Please Print or Type)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
FAX Number

ATTEST:

Indicate whether - Individual  
Partnership  
Corporation

\_\_\_\_\_  
Secretary

DOCUMENT 00 45 19

NON-COLLUSION AFFIDAVIT

**MARCUS H.S. FOOD SERVICE EQUIPMENT REPLACEMENTS AND RENOVATIONS  
LEWISVILLE INDEPENDENT SCHOOL DISTRICT**

By submission of this bid or proposal, the undersigned certifies that:

- A. The bid or proposal has been independently arrived at without collusion with any other bidder or with any other competitor;
- B. This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, to any other bidder or competitor or potential competitor, prior to the opening of the bids, or proposals for this project;
- C. No attempt has been or will be made to induce any other person, partnership or corporation to submit or not submit a bid or proposal;
- D. The undersigned certifies that he is fully informed regarding the accuracy of the statements contained in this certification, and that the penalties herein are applicable to the bidder as well as to any person signing in his behalf.

\_\_\_\_\_  
Authorized Agent (Print Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

END OF DOCUMENT

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DOCUMENT 00 45 20

FELONY CONVICTION NOTIFICATION

State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (a) states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or owner or operator of the business entity has been convicted of a felony." The notice must include a general description of the conduct resulting in the conviction of a felony.

Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

**This notice is not required of a publicly-held corporation.**

**Please complete the information below.**

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge.

Offeror's Name: \_\_\_\_\_

Name of Authorized Company Official (Please print or type):

\_\_\_\_\_

A. My firm is a publicly-held corporation; therefore, this reporting requirement is not applicable.

Signature of Authorized Company Official: \_\_\_\_\_  
Date

B. My firm is not owned nor operated by anyone who has been convicted of felony.

Signature of Authorized Company Official: \_\_\_\_\_  
Date

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): \_\_\_\_\_

\_\_\_\_\_

Details of Conviction(s): \_\_\_\_\_

\_\_\_\_\_

Signature of Authorized Company Official: \_\_\_\_\_  
Date

END OF SECTION

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DOCUMENTS 00 45 25

CERTIFICATION OF CRIMINAL HISTORY RECORD INFORMATION  
REVIEW BY CONTRACTOR-EMPLOYER

**Certifying Affidavit submitted to:**

**Name of School District:** Lewisville ISD

**Mailing Address:** 1565A W. Main Street  
Lewisville, TX 75067

**Project:** Marcus H.S. Food Service Equipment Replacements and Renovations

STATE OF TEXAS §

COUNTY OF Denton §

(1) The undersigned representative, on behalf of the contracting firm identified below, swears and affirms to Lewisville Independent School District (the "District") that such firm has obtained, reviewed and verified, from a law enforcement or criminal justice agency or a private entity that is consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. §§ 1681 et seq.) the criminal history record information of all employees hired **before January 1, 2008**, who (a) have or will have continuing duties related to the contracted services, and (b) have or will be on school campuses. Such employees are identified by name on Schedule A attached hereto. The undersigned further swears and affirms no employees who meet the requirements of (a) and (b) herein and/or identified on Schedule A have been convicted of any offense identified in Section 22.085 of the Texas Education Code.

(2) The undersigned representative, on behalf of the contracting firm identified below, swears and affirms to the District, that such firm has obtained, reviewed and verified, from the Texas Department of Public Safety criminal clearinghouse, the national criminal history record information of all employees hired **on or after January 1, 2008**, who (a) have or will have continuing duties related to the contracted services, and (b) be on school campuses. Such employees are identified by name on Schedule B attached hereto. The undersigned further swears and affirms no employees who meet the requirements of (a) and (b) herein and/or identified on Schedule B have been convicted of any offense identified in Section 22.085 of the Texas Education Code.

(3) The undersigned firm swears and covenants that no present or future employee will provide services to the Project that involve direct contact with students unless and until such employee's national criminal history record information has been reviewed and cleared as required by Paragraph (2) above, and an updated Certification has been submitted by the contracting firm to the District with an updated Schedule B identifying such employees. In the event of an emergency, an employee who has not been previously certified may only provide services that involve direct contact with students if such employee is escorted by a District representative.

(4) The undersigned firm swears and covenants that, upon receipt of information, directly or indirectly, that any employee of the contracting firm has been convicted of an offense identified in Section 22.085 of the Texas Education Code, the contracting firm will immediately remove such employee from the Project and notify the District.

Marcus H.S. Food Service Equipment Replacements and Renovations  
Lewisville ISD  
Lewisville, Texas

(5) Furthermore, the name, driver's license number, date of birth, and any other information required by the DPS will be submitted to the District for any person on either Schedule A or Schedule B for the purposes of subscribing to and issuing a District badge.

\_\_\_\_\_, being duly sworn, affirms and certifies that he/she is the  
\_\_\_\_\_ (position) of \_\_\_\_\_ (contracting  
firm), and that all statements and acknowledgements contained herein are true and correct, and that  
he/she has the authority to bind such firm to the covenants set out above.

\_\_\_\_\_

SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public \_\_\_\_\_

State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

DOCUMENT 00 45 46

CONFLICT OF INTEREST QUESTIONNAIRE  
for vendor or other person doing business with local governmental entity

The attached questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

This questionnaire reflects changes made to the law by H.B. 23, 84<sup>th</sup> Leg., Regular Session, which became effective September 1, 2015. This form was adopted by the Texas Ethics Commission, November 30, 2015.

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**CONFLICT OF INTEREST QUESTIONNAIRE**  
For vendor doing business with local governmental entity

**FORM CIQ**

**This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

**OFFICE USE ONLY**

Date Received

**1 Name of vendor who has a business relationship with local governmental entity.**

**2**  **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

**3 Name of local government officer about whom the information is being disclosed.**

\_\_\_\_\_  
Name of Officer

**4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes       No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes       No

**5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

**6**  Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

**7**

\_\_\_\_\_  
Signature of vendor doing business with the governmental entity

\_\_\_\_\_  
Date

## **CONFLICT OF INTEREST QUESTIONNAIRE**

### **For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

\*\*\*

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

# AIA<sup>®</sup> Document A101<sup>®</sup> – 2017

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

A101-2017 v4 (10-14-2021) ISD

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

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

Lewisville ISD

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

TBD

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

ARBH File No.  
TBD

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

TBD

The Owner and Contractor agree as follows.

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

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

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

Init.

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**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:

Init.

(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.)

Provisions are described in the A201 – 2017 v: \_\_\_\_\_ General Conditions of the Contract for Construction, provided by Owner, attached hereto and incorporated herein for all purposes.

§ 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 fifth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 25th day of the same 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 forty-five ( 45 ) 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, as modified by the Owner, 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, as modified by the Owner;
- .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, as modified by the Owner; 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.)*

Five Percent (5%).

§ 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.)*

None.

§ 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.)*

None.

§ 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.)*

Retainage for Work that is incomplete or not in conformance with the requirements of the Contract Documents.

§ 5.1.8 Paragraph Intentionally Deleted.

§ 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, as modified by the Owner, 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.)*

The rate of interest computed in accordance with the provisions of Texas Government Code, Section 2251.025. %

## ARTICLE 6 DISPUTE RESOLUTION

### § 6.1 Initial Decision Maker

The Owner will serve as the Initial Decision Maker pursuant to Article 1 of AIA Document A201-2017, as modified by the Owner, 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 Owner.)*

Init.

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**§ 6.2 Binding Dispute Resolution**

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

**§ 7.1.1** If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, as modified by the Owner, 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, as modified by the Owner.

**ARTICLE 8 MISCELLANEOUS PROVISIONS**

**§ 8.1** Where reference is made in this Agreement to a provision of AIA Document A201–2017, as modified by the Owner, 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)*

Init.

§ 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, as modified by Owner, and elsewhere in the Contract Documents.

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

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

#### §8.7.1 CRIMINAL BACKGROUND

No person shall be engaged by the Contractor or any Sub-Contractor to work on Owner's property where students are present who has charges pending, or who has been convicted, received probation or deferred adjudication for the following:

- .1 Any offense against a child;
- .2 Any sex offense;
- .3 Any crimes against persons involving weapons or violence;
- .4 Any felony offense involving controlled substances;
- .5 Any felony offense against property; or
- .6 Any other offense that the Owner believes might compromise the safety of students, staff or property.

It shall be the responsibility of the Contractor and Sub-Contractor to ensure compliance with this provision.

§8.7.1.1 Any person associated with, engaged and/or representing on site or doing business with the Owner shall submit such background information as may be requested by the Owner in order to enable the Owner to perform criminal background evaluations/investigations of such person.

§8.7.1.2 A copy of the Criminal History Check form shall be available for review by the employer and affected party at the Owner's administration office during normal business hours.

#### §8.7.2 WORKING TIME AND WORKING RESTRICTIONS

§8.7.2.1 THE ENTIRE BUILDING IS TOBACCO-FREE AT ALL TIMES AND APPLIES TO ALL OCCUPANTS.

§8.7.2.2 Normal working hours and normal working days for Contractor's work on this Project shall be between 7:00 a.m. and 8:00 p.m., Monday through Friday, except as otherwise noted below. The Owner may require that certain limited portions of the Work be accomplished after normal working hours or other than on normal working days.

§8.7.2.3 Should Contractor desire to carry out portions of the Work at times other than between the hours and days stipulated above, he shall submit written request to do so to the Owner together with specific calendar days and

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hours he wishes to work and a description of the activities he proposes to carry out during those times. Construction activities will not be permitted at times other than those specified or subsequently approved in writing by the Owner.

Only those activities specifically approved by Owner will be permitted during hours or on days other than those stipulated above.

**§8.7.2.4** No extension of time will be granted and no "extra" or additional amount will be paid due to failure of Owner to approve performing of construction activities during hours other than those stipulated above.

**§8.7.2.5** Work performed other than between 7:00 a.m. and 8:00 p.m., Monday through Friday, shall be done at no additional cost, whether work at other times is required by Owner or requested by Contractor and approved by Owner.

**§8.7.2.6** If necessary in order to complete Work within time fixed in Contract or any extension thereof, Contractor shall request approval from Owner to perform work before 7:00 a.m. or after 8:00 p.m. or on weekends or holidays, and if Owner approves, shall perform work during such additional times and on such additional days as have been approved, at no additional cost to Owner. Work during such additional times and on such additional days shall continue only so long as is necessary to return work to on schedule or to complete the Work within the Contract Date.

**§ 8.8** In accordance with Texas Government Code, Chapter 2270, the undersigned avers that it does not boycott Israel and will not boycott Israel during the term of this Agreement.

#### **ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS**

**§ 9.1** This Agreement is comprised of the following documents:

- .1 This AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor.
- .2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds, provided by Owner, attached hereto and incorporated herein for all purposes.
- .3 AIA Document A201™-2017 v \_\_\_\_\_, General Conditions of the Contract for Construction, provided by Owner, attached hereto and incorporated herein for all purposes.
- .4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this Agreement.)*

- .5 Drawings: Those Drawings set forth in the \_\_\_\_\_ prepared by \_\_\_\_\_, dated \_\_\_\_\_, referenced in Attachment A, attached hereto and fully incorporated herein [in its entirety] for all purposes.

|                                 | Title | Date |
|---------------------------------|-------|------|
| Title of Drawings Attachment: A |       |      |

- .6 Specifications: Those Specifications set forth in the \_\_\_\_\_ prepared by \_\_\_\_\_, dated \_\_\_\_\_, referenced in Attachment B, attached hereto and fully incorporated herein in its entirety for all purposes.

|                                       | Title | Date | Pages |
|---------------------------------------|-------|------|-------|
| Title of Specifications Attachment: B |       |      |       |

- .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 |
|-------|------|-------|
|-------|------|-------|

[ NONE ] Supplementary and other Conditions of the Contract:

| Document | Title | Date | Pages |
|----------|-------|------|-------|
|----------|-------|------|-------|

**.9 Other documents, if any, listed below:**

*(Paragraph Deleted)*

1. Owner's Request for Proposal
2. Contractor's Response to Request for Proposal

This Agreement entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

\_\_\_\_\_  
**OWNER** *(Signature)*

\_\_\_\_\_  
**CONTRACTOR** *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
*(Printed name and title)*

Init.

# **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 15:25:37 CT on 04/18/2023.

## **PAGE 1**

### A101-2017 v4 (10-14-2021) ISD

...

Lewisville ISD

...

TBD

...

ARBH File No.

TBD

...

TBD

## **PAGE 3**

Provisions are described in the A201 – 2017 v: General Conditions of the Contract for Construction, provided by Owner, attached hereto and incorporated herein for all purposes.

## **PAGE 4**

**§ 5.1.3** Provided that an Application for Payment is received by the Architect not later than the fifth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 25th day of the same 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 forty-five ( 45 ) days after the Architect receives the Application for Payment.

...

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

...

.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;~~A201-2017, as modified by the Owner;

...

.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;~~A201-2017, as modified by the Owner; and

**PAGE 5**

Five Percent (5%).

...

None.

...

None.

...

Retainage for Work that is incomplete or not in conformance with the requirements of the Contract Documents.

...

**§ 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.~~Paragraph Intentionally Deleted.

...

.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, as modified by the Owner, and to satisfy other requirements, if any, which extend beyond final payment; and

...

The rate of interest computed in accordance with the provisions of Texas Government Code, Section 2251.025. %

...

The ~~Architect-Owner~~ will serve as the Initial Decision Maker pursuant to Article ~~15-1~~ of AIA Document A201-2017, as modified by the Owner, 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-Owner~~.)*

## PAGE 6

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

...

[ X ] Litigation in a court of competent jurisdiction

...

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

...

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

...

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

...

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

## PAGE 7

§ 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, as modified by Owner, and elsewhere in the Contract Documents.

...

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

...

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

...

### **§8.7.1 CRIMINAL BACKGROUND**

No person shall be engaged by the Contractor or any Sub-Contractor to work on Owner's property where students are present who has charges pending, or who has been convicted, received probation or deferred adjudication for the following:

- .1 Any offense against a child;
- .2 Any sex offense;
- .3 Any crimes against persons involving weapons or violence;
- .4 Any felony offense involving controlled substances;
- .5 Any felony offense against property; or
- .6 Any other offense that the Owner believes might compromise the safety of students, staff or property.

It shall be the responsibility of the Contractor and Sub-Contractor to ensure compliance with this provision.

§8.7.1.1 Any person associated with, engaged and/or representing on site or doing business with the Owner shall submit such background information as may be requested by the Owner in order to enable the Owner to perform criminal background evaluations/investigations of such person.

§8.7.1.2 A copy of the Criminal History Check form shall be available for review by the employer and affected party at the Owner's administration office during normal business hours.

### **§8.7.2 WORKING TIME AND WORKING RESTRICTIONS**

§8.7.2.1 THE ENTIRE BUILDING IS TOBACCO-FREE AT ALL TIMES AND APPLIES TO ALL OCCUPANTS.

§8.7.2.2 Normal working hours and normal working days for Contractor's work on this Project shall be between 7:00 a.m. and 8:00 p.m., Monday through Friday, except as otherwise noted below. The Owner may require that certain limited portions of the Work be accomplished after normal working hours or other than on normal working days.

§8.7.2.3 Should Contractor desire to carry out portions of the Work at times other than between the hours and days stipulated above, he shall submit written request to do so to the Owner together with specific calendar days and hours he wishes to work and a description of the activities he proposes to carry out during those times. Construction activities will not be permitted at times other than those specified or subsequently approved in writing by the Owner.

Only those activities specifically approved by Owner will be permitted during hours or on days other than those stipulated above.

§8.7.2.4 No extension of time will be granted and no "extra" or additional amount will be paid due to failure of Owner to approve performing of construction activities during hours other than those stipulated above.

§8.7.2.5 Work performed other than between 7:00 a.m. and 8:00 p.m., Monday through Friday, shall be done at no additional cost, whether work at other times is required by Owner or requested by Contractor and approved by Owner.

§8.7.2.6 If necessary in order to complete Work within time fixed in Contract or any extension thereof, Contractor shall request approval from Owner to perform work before 7:00 a.m. or after 8:00 p.m. or on weekends or holidays, and if Owner approves, shall perform work during such additional times and on such additional days as have been approved, at no additional cost to Owner. Work during such additional times and on such additional days shall continue only so long as is necessary to return work to on schedule or to complete the Work within the Contract Date.

**PAGE 8**

§ 8.8 In accordance with Texas Government Code, Chapter 2270, the undersigned avers that it does not boycott Israel and will not boycott Israel during the term of this Agreement.

...

.1 This AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor.

...

.2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds, provided by Owner, attached hereto and incorporated herein for all purposes.

...

.3 AIA Document A201™-2017, A201™-2017 v \_\_\_\_\_, General Conditions of the Contract for Construction, provided by Owner, attached hereto and incorporated herein for all purposes.

...

.5 Drawings: Those Drawings set forth in the \_\_\_\_\_ prepared by \_\_\_\_\_, dated \_\_\_\_\_, referenced in Attachment A, attached hereto and fully incorporated herein [in its entirety] for all purposes.

...

| Number | Title                                  | Date |
|--------|--|------|
|        | <u>Title of Drawings Attachment: A</u> |      |

...

.6 Specifications: Those Specifications set forth in the \_\_\_\_\_ prepared by \_\_\_\_\_, dated \_\_\_\_\_, referenced in Attachment B, attached hereto and fully incorporated herein in its entirety for all purposes.

...

| Section | Title  | Date | Pages |
|---------|--|------|-------|
|         | <u>Title of Specifications Attachment: B</u> |      |       |

PAGE 9

[ NONE ] Supplementary and other Conditions of the Contract:

...

*(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.)*

...

1. Owner's Request for Proposal

...

2. Contractor's Response to Request for Proposal

...

This Agreement entered into as of the day and year first written ~~above~~ above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

**Certification of Document's Authenticity**  
**AIA® Document D401™ – 2003**

I, /mls, 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 15:25:37 CT on 04/18/2023 under Order No. 2114312451 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)*



# AIA Document A101® – 2017 Exhibit A

## Insurance and Bonds

A101-2017 Exhibit A v1 (10-27-20)

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the day of in the year  
*(In words, indicate day, month and year.)*

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

ARBH File No.:  
TBD

**THE OWNER:**  
*(Name, legal status and address)*

Lewisville ISD

**THE CONTRACTOR:**  
*(Name, legal status and address)*

TBD

### TABLE OF ARTICLES

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

#### ARTICLE A.1 GENERAL

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

#### ARTICLE A.2 OWNER'S INSURANCE

##### § A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance required under Section A.2.3 and, upon the Contractor's request, provide evidence thereof by a certificate of insurance reasonably acceptable to the Contractor.

##### § A.2.2 Liability Insurance

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

#### ADDITIONS AND DELETIONS:

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

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

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

**§ A.2.3 Required Property Insurance**

**§ A.2.3.1** Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall provide and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in Texas, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. Loss, if any, shall be adjusted with, and made payable to, the Owner on behalf of all insureds as their interests may appear. The Owner may satisfy this obligation by enrolling the Project in a consortium or agency of the State of Texas that provides coverages of the types and in the amounts set forth herein.

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

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

**Causes of Loss**

**Sub-Limit**

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

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

**Coverage**

**Sub-Limit**

**§ A.2.3.1.3** Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

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

**§ A.2.3.2 Occupancy or Use Prior to Substantial Completion.** The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. Notwithstanding the foregoing, any partial occupancy or use by Owner that would cause cancellation, lapse, or reduction of insurance does not constitute an event of default by Owner hereunder.

**§ A.2.3.3 Insurance for Existing Structures**

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

**§ A.2.4 Optional Extended Property Insurance.**

The Owner may, but shall not be required to provide and maintain the insurance selected and described below. *(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)*

- § A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner’s property, or the inability to conduct normal operations due to a covered cause of loss.
  
- § A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
  
- § A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
  
- § A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
  
- § A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
  
- § A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured’s business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
  
- § A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

**§ A.2.5 Other Optional Insurance.**

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

Init.

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

[ ] **§ A.2.5.2 Other Insurance**  
*(List below any other insurance coverage to be provided by the Owner and any applicable limits.)*

Coverage

Limits

## ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

### § A.3.1 General

**§ A.3.1.1 Certificates of Insurance.** The Contractor shall provide certificates of insurance acceptable to the Owner on an ACORD form evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies. At Owner's request, the Contractor shall provide Owner a copy of the policies of insurance required hereunder. Owner's failure to require the submission of the certificates of insurance, or any of them, shall not excuse the Contractor of its obligation to procure and maintain the insurance required herein.

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

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

### § A.3.2 Contractor's Required Insurance Coverage

**§ A.3.2.1** The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in Texas having a financial rating of B+VI or better as assigned by the A.M. BEST Company or equivalent. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

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

With respect to the Contractor's completed operations coverage, the duration shall continue through the end of any required maintenance of completed operations.

### § A.3.2.2 Commercial General Liability

**§ A.3.2.2.1** Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million Dollars ( \$ 1,000,000.00 ) each occurrence, Two Million Dollars ( \$ 2,000,000.00 )

Init.

general aggregate, and Two Million Dollars ( \$ 2,000,000.00 ) aggregate for products-completed operations hazard, providing coverage for claims including

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

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

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

**§ A.3.2.3** Automobile Liability covering vehicles owned, hired, and non-owned vehicles used, by the Contractor, with policy limits of not less than Five Hundred Thousand Dollars ( \$ 500,000.00 ) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

**§ A.3.2.4** The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

**§ A.3.2.5** Workers' Compensation at statutory limits.

**§ A.3.2.6** Employers' Liability with policy limits not less than Five Hundred Thousand Dollars ( \$ 500,000.00 ) each accident, Five Hundred Thousand Dollars ( \$ 500,000.00 ) each employee, and Five Hundred Thousand Dollars ( \$ 500,000.00 ) policy limit.

**§ A.3.2.7** . Intentionally Deleted.

**§ 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 One Million Dollars (\$ 1,000,000.00 ) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than One Million Dollars (\$ 1,000,000.00 ) per claim and One Million Dollars (\$ 1,000,000.00 ) in the aggregate.

§ A.3.2.11 Intentionally Deleted.

§ A.3.2.12 Intentionally Deleted.

**§ A.3.3 Contractor's Other Insurance Coverage**

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in Texas having a financial rating of B+VI or better as assigned by the A.M. BEST Company or equivalent. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

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

Umbrella or Excess Liability insurance with a minimum limit of \$2,000,000.00.

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

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

- § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:  
*(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*

§ A.3.3.2.2 Railroad Protective Liability Insurance – Intentionally Deleted.

§ A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

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

§ A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the

Contractor and used on the Project, including scaffolding and other equipment.

[ ] **§ A.3.3.2.6 Other Insurance**  
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

| Coverage | Limits |
|----------|--------|
|----------|--------|

**§ A.3.4 Performance Bond and Payment Bond**

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in Texas, as follows:

(Specify type and penal sum of bonds.)

| Type             | Penal Sum (\$0.00)  |
|------------------|---|
| Payment Bond     | In the total amount of the Contract Sum, as modified during the term of construction. |
| Performance Bond | In the total amount of the Contract Sum, as modified during the term of construction. |

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

**ARTICLE A.4 SPECIAL TERMS AND CONDITIONS**

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

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall require each subcontractor of every tier performing work under the Contract, at the subcontractor's own expense, to maintain during the term of the engagement of such subcontractor the types and limits of insurance set forth above that are appropriate with the work being performed. All subcontractors' liability insurance shall name the Contractor as an additional insured.

# Additions and Deletions Report for AIA® Document A101® – 2017 Exhibit A

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 15:28:39 CT on 04/18/2023.

## PAGE 1

A101-2017 Exhibit A v1 (10-27-20

...

ARBH File No.:  
TBD

...

Lewisville ISD

...

TBD

...

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

...

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

## PAGE 2

**§ A.2.3.1** Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall ~~purchase~~ provide and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in ~~the jurisdiction where the Project is located, Texas,~~ property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. ~~This insurance shall include the interests of mortgagees as loss payees.~~ Loss, if any, shall be adjusted with, and made payable to, the Owner on behalf of all insureds as their interests may appear. The Owner may satisfy this

obligation by enrolling the Project in a consortium or agency of the State of Texas that provides coverages of the types and in the amounts set forth herein.

...

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

...

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

...

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

PAGE 3

The Owner ~~shall purchase~~ may, but shall not be required to provide and maintain the insurance selected and described below.

PAGE 4

§ A.3.1.1 **Certificates of Insurance.** The Contractor shall provide certificates of insurance acceptable to the Owner on an ACORD form evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies. At Owner's request, the Contractor shall provide Owner a copy of the policies of insurance required hereunder. Owner's failure to require the submission of the certificates of insurance, or any of them, shall not excuse the Contractor of its obligation to procure and maintain the insurance required herein.

...

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

...

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in ~~the jurisdiction where the Project is located-Texas~~ having a financial rating of B+VI or better as assigned by the A.M. BEST Company or equivalent. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

With respect to the Contractor's completed operations coverage, the duration shall continue through the end of any required maintenance of completed operations.

...

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million Dollars (\$ 1,000,000.00 ) each occurrence, Two Million Dollars (\$ 2,000,000.00 ) general aggregate, and Two Million Dollars (\$ 2,000,000.00 ) aggregate for products-completed operations hazard, providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, hired, and non-owned vehicles used, by the Contractor, with policy limits of not less than Five Hundred Thousand Dollars (\$ 500,000.00 ) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

...

§ A.3.2.6 Employers' Liability with policy limits not less than Five Hundred Thousand Dollars (\$ 500,000.00 ) each accident, Five Hundred Thousand Dollars (\$ 500,000.00 ) each employee, and Five Hundred Thousand Dollars (\$ 500,000.00 ) policy limit.

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

§ 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 One Million Dollars (\$ 1,000,000.00 ) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than One Million Dollars (\$ 1,000,000.00 ) per claim and One Million Dollars (\$ 1,000,000.00 ) in the aggregate.

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

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

PAGE 6

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in ~~the jurisdiction where the Project is located-Texas~~ having a financial rating of B+VI or better as assigned by the A.M. BEST Company or equivalent. The Contractor

shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

Umbrella or Excess Liability insurance with a minimum limit of \$2,000,000.00.

...

§ 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.3.3.2.2 ~~Railroad Protective Liability Insurance, with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate, for Work within fifty (50) feet of railroad property.~~Insurance – Intentionally Deleted.

**PAGE 7**

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, Texas, as follows:

...

|                  |  |
|------------------|--|
| Payment Bond     | <u>In the total amount of the Contract Sum, as modified during the term of construction.</u> |
| Performance Bond | <u>In the total amount of the Contract Sum, as modified during the term of construction.</u> |

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

...

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall require each subcontractor of every tier performing work under the Contract, at the subcontractor's own expense, to maintain during the term of the engagement of such subcontractor the types and limits of insurance set forth above that are appropriate with the work being performed. All subcontractors' liability insurance shall name the Contractor as an additional insured.



**DOCUMENT 00 61 13.13**

**PERFORMANCE BOND FORM**

**Bond No.:** \_\_\_\_\_

(Penalty of this bond must be 100% of contract amount)

KNOW ALL MEN BY THESE PRESENTS, that: \_\_\_\_\_  
(hereinafter called the Principal), as principal, and  
a corporation organized and existing under the laws of the State of \_\_\_\_\_ authorized and admitted to  
do business in the State of Texas and licensed by the State of Texas to execute bonds as Surety (hereinafter called the Surety), as  
Surety, are held and firmly bound unto

\_\_\_\_\_  
\_\_\_\_\_  
(hereinafter called the Obligee) in the amount of \_\_\_\_\_

Dollars(\$ \_\_\_\_\_) for the payment whereof, the said Principal and Surety bind themselves, and their heirs,  
administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated this \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_.

**MARCUS H.S. FOOD SERVICE EQUIPMENT REPLACEMENTS AND RENOVATIONS  
LEWISVILLE ISD  
LEWISVILLE, TEXAS**

which contract is hereby referred to and made a part hereof as fully and the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform  
the work in accordance with the plans, specifications and contract documents, then this obligation shall be void; otherwise to  
remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 22.53 of the Texas Government Code  
and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it  
were copied at length herein.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this Instrument this \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
Principal (Seal)

Surety Address By: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Surety (Seal)

Surety Telephone Number By: \_\_\_\_\_  
Attorney-in-Fact

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**DOCUMENT 00 61 13.16**

**PAYMENT BOND FORM**

**Bond No.:** \_\_\_\_\_

(Penalty of this bond must be 100% of contract amount)

KNOW ALL MEN BY THESE PRESENTS, that: \_\_\_\_\_  
(hereinafter called the Principal), as principal,  
a corporation organized and existing under the laws of the State of \_\_\_\_\_ authorized and admitted to  
do business in the State of Texas and licensed by the State of Texas to execute bonds as Surety (hereinafter called the Surety), as  
Surety, are held and firmly bound unto

\_\_\_\_\_ (hereinafter called the Obligee) in the amount of \_\_\_\_\_

Dollars(\$ \_\_\_\_\_) for the payment whereof, the said Principal and Surety bind themselves, and their heirs,  
administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated this \_\_\_\_\_ day of \_\_\_\_\_,

**MARCUS H.S. FOOD SERVICE EQUIPMENT REPLACEMENTS AND RENOVATIONS  
LEWISVILLE ISD  
LEWISVILLE, TEXAS**

which contract is hereby referred to and made a part hereof as fully and the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall pay all claimants  
supplying labor and material to him or a Subcontractor in the prosecution of the work provided for in said contract, then this  
obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 22.53 of the Texas Government Code  
and all liabilities on this bond to all such claimants shall be determined in accordance with the provisions of said Chapter to the  
same extent as if it were copied at length herein.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this Instrument this \_\_\_\_\_ day of \_\_\_\_\_,

Witness: \_\_\_\_\_ (Seal)  
Principal

\_\_\_\_\_ By: \_\_\_\_\_

Witness: \_\_\_\_\_ (Seal)  
Surety

\_\_\_\_\_ By: \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_ Surety Address \_\_\_\_\_ Surety Telephone Number

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**DOCUMENT 00 65 00**  
**RELEASE OF LIEN DOCUMENTS**

**APPENDIX INDEX:**

1. **CONDITIONAL WAIVER FOR PROGRESS PAYMENTS**
2. **UNCONDITIONAL WAIVER FOR PROGRESS PAYMENTS**
3. **CONDITIONAL WAIVER FOR FINAL PAYMENT**
4. **UNCONDITIONAL WAIVER FOR FINAL PAYMENT**

[Note: the attached forms are duplicated *verbatim* (without editing) from HB 1456.]

**FORM 1: CONDITIONAL WAIVER FOR PROGRESS PAYMENTS**

\* \* \* \* \*

**CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**

Project:

Job No.:

On receipt by the signer of this document of a check from \_\_\_\_\_

(maker of check) in the sum of \$ \_\_\_\_\_

payable to \_\_\_\_\_

(payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of \_\_\_\_\_

(owner) located at (location) to the following extent: \_\_\_\_\_

\_\_\_\_\_ (job description).

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to \_\_\_\_\_ (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

Date: \_\_\_\_\_

\_\_\_\_\_ (Company name)

By \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Title)

**FORM 2: UNCONDITIONAL WAIVER FOR PROGRESS PAYMENTS**

\* \* \* \* \*

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. IT IS PROHIBITED FOR A PERSON TO REQUIRE YOU TO SIGN THIS DOCUMENT IF YOU HAVE NOT BEEN PAID THE PAYMENT AMOUNT SET FORTH BELOW. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.

**UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**

Project:

Job No.:

The signer of this document has been paid and has received a progress payment in the sum of \$ \_\_\_\_\_ for all labor, services, equipment, or materials furnished to the property or to \_\_\_\_\_ (person with whom signer contracted) on the property of \_\_\_\_\_ (owner) located at \_\_\_\_\_ (location) to the following extent: \_\_\_\_\_

\_\_\_\_\_ (job description). The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the above referenced project to the following extent: \_\_\_\_\_

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to \_\_\_\_\_ (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in **full** all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

Date: \_\_\_\_\_

\_\_\_\_\_ (Company name)

By \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Title)

**FORM 3: CONDITIONAL WAIVER FOR FINAL PAYMENT**

\* \* \* \* \*

**CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**

Project:

Job No.:

On receipt by the signer of this document of a check from \_\_\_\_\_

\_\_\_\_\_ (maker of check) in the sum of  
\$ \_\_\_\_\_ payable to

\_\_\_\_\_ (payee or payees of check) and when the check has been properly  
endorsed and has been paid by the bank on which it is drawn, this document becomes effective to  
release any mechanic's lien right, any right arising from a payment bond that complies with a state or  
federal statute, any common law payment bond right, any claim for payment, and any rights under any  
similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's  
position that the signer has on the property of \_\_\_\_\_

\_\_\_\_\_ (owner) located at \_\_\_\_\_

\_\_\_\_\_ (location) to the following extent: \_\_\_\_\_

\_\_\_\_\_ (job description).

This release covers the final payment to the signer for all labor, services, equipment, or materials  
furnished to the property or to \_\_\_\_\_  
(person with whom signer contracted).

Before any recipient of this document relies on this document, the recipient should verify evidence of  
payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this final  
payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers  
for all work, materials, equipment, or services provided for or to the above referenced project up to  
the date of this waiver and release.

Date: \_\_\_\_\_

\_\_\_\_\_ (Company name)

By \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Title)

**FORM 4: UNCONDITIONAL WAIVER FOR FINAL PAYMENT**

\* \* \* \* \*

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. IT IS PROHIBITED FOR A PERSON TO REQUIRE YOU TO SIGN THIS DOCUMENT IF YOU HAVE NOT BEEN PAID THE PAYMENT AMOUNT SET FORTH BELOW. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.

UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project: \_\_\_\_\_

Job No.: \_\_\_\_\_

The signer of this document has been paid in full for all labor, services, equipment, or materials furnished to the property or to \_\_\_\_\_

\_\_\_\_\_ (person with whom signer contracted) on the property of \_\_\_\_\_

\_\_\_\_\_ (owner) located at \_\_\_\_\_

\_\_\_\_\_ (location) to the following extent \_\_\_\_\_

: \_\_\_\_\_ (job description). The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project up to the date of this waiver and release.

Date: \_\_\_\_\_

\_\_\_\_\_ (Company name)

By \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Title)

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**LEWISVILLE INDEPENDENT SCHOOL DISTRICT VENDOR INSURANCE ACKNOWLEDGEMENT**

Any individual or organization doing business with Lewisville Independent School District ("LISD" or the "District") is required to provide proof of various insurances, including workers' compensation insurance.

Vendor understands and agrees to abide by all terms, conditions, rules, and regulations provided in LISD's \_\_\_\_\_ . In addition, the Vendor understands and agrees to abide by the procedures and policies of the District. Vendor holds the District harmless for injury to the vendor and others and damage to the Vendor or District property. The vendor acknowledges liability for injury or damage to the District and others, including district employees. Lewisville ISD's Purchase Order "General Terms and Conditions" are incorporated in this agreement by reference herein and can also be viewed at the following link:

<https://www.lisd.net/cms/lib/TX01918037/Centricity/Domain/148/PO-TandCs.pdf>

Vendor acknowledges the District will NOT provide insurance coverage to Vendor or its employees, subcontractors, agents, representatives, etc. Vendor represents to the District that all employees, subcontractors, agents, representatives, etc. of Vendor will be covered by liability and workers' compensation insurance for the duration of Vendor's agreement with LISD, that the coverages will be based on proper reporting to the insurance company(ies), and that all coverage agreements will be filed with the appropriate insurance carrier or state regulatory agency.

If Vendor does not have any employees pursuant to IRS guidelines, Vendor may request a waiver from LISD's workers' compensation insurance requirement.

\_\_\_\_\_ (initials) Vendor hereby represent and warrants that Vendor DOES NOT have any employees pursuant to IRS guidelines and hereby requests a waiver from LISD's workers' compensation insurance requirement, and all of its subcontractors, agents, representatives, etc. have received the appropriate notice concerning workers' compensation insurance.

Vendor:

\_\_\_\_\_  
Name Signature Date

Waiver from LISD's workers' compensation insurance requirement is  Approved  Denied

LISD Representative:

\_\_\_\_\_  
Name Signature Date

## LEWISVILLE INDEPENDENT SCHOOL DISTRICT VENDOR INSURANCE REQUIREMENTS

All contractors providing goods or services to Lewisville ISD (LISD) are required to provide proof of insurance. The required coverages are based on the scope of the contract or agreement.

**A certificate of insurance meeting all requirements must be provided and approved prior to start of work/delivery of goods.** Please review this document closely to determine your minimum requirements.

Lewisville ISD reserves the right to require complete, certified copies of all required insurance policies at any time. Neither the approval by Lewisville ISD of any insurance certificate supplied nor the failure to disapprove that insurance, shall relieve the vendor from full responsibility.

|   |  |   |
|---|--|---|
|   |  |   |
| <b>Commercial General Liability</b>   |  | <b>\$1,000,000 Per Occurrence/\$2,000,000 Aggregate</b>   |
| <b>Automobile Liability including all owned, hired, and non-owned vehicles</b>        |  | <b>\$1,000,000 Bodily Injury and Property Damage Combined Single Limit</b>  |
| <b>Workers' Compensation</b>  |  | <b>Statutory Limits</b>   |
| <b>Employers' Liability</b>   |  | <b>\$1,000,000/\$1,000,000/\$1,000,000</b>  |
| <b>Professional Liability</b>   |  | <b>\$1,000,000 Per Claim/Wrongful Act</b>   |
| <b>Cyber &amp; Data Breach</b>  |  | <b>\$1,000,000 for all required coverages, to include Privacy &amp; Security Liability; Breach Response; Cyber Extortion; PCI Fines &amp; Penalties</b> |
| <b>Sexual Misconduct</b>  |  | <b>\$1,000,000 Per Occurrence/\$1,000,000 Aggregate</b>   |
| <b>Crime</b>  |  | <b>\$1,000,000 Per Occurrence</b>   |
| <b>Umbrella or Excess Liability</b>   |  | <b>Follow Form of Underlying Policy</b>   |
| <b>Lewisville ISD as Additional Insured</b>   |  | <b>Required All Policies</b>  |
| <b>Lewisville ISD as Certificate Holder</b>   |  | <b>Required All Policies</b>  |
| <b>Waiver of Subrogation</b>  |  | <b>Required All Policies</b>  |
| <b>Primary &amp; Non-Contributory</b>   |  | <b>Required All Policies</b>  |
| <b>Notice of Policy Change (suspended, voided, canceled, non- renewed or reduced)</b> |  | <b>Required All Policies</b>  |
| <b>Endorsements</b>   |  | <b>Required All Policies</b>  |

**Items 1- 4 below are minimum requirements that apply to ALL contractors. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the contractor.**

The insurance requirements, as listed within this document also apply to any sub-contractor(s) in the event that any work is sublet. Without limiting any of the other obligations or liabilities of the contractor, the contractor shall require each subcontractor of every tier performing work under the Contract, at the subcontractor's own expense, to maintain during the term of the engagement of such subcontractor the types and limits of insurance set forth above that are appropriate with the work being performed. All subcontractors' liability insurance shall name the Contractor as an additional insured.

## LEWISVILLE INDEPENDENT SCHOOL DISTRICT VENDOR INSURANCE REQUIREMENTS

### 1. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

All Certificates of Insurance shall be prepared, signed, and executed by the insurance company or its authorized agent, and shall contain provisions warranting the following:

- a. Vendor name as listed on Lewisville ISD Proposal/Agreement shall be listed as the Insured (including DBA).
- b. Insurance shall be written by a carrier with an A-: VII or better rating in accordance with current A.M. Best Key Rating Guide; or written by an associational trust approved by LISD.
- c. All liability coverages must be on an occurrence basis, with the exception of professional liability and cyber which can be issued on a claims-made form. All claims-made coverages must be maintained for a minimum of 3-years after the completion of any contract or agreement.
- d. Sets forth all endorsement and insurance coverage according to requirements and instructions contained herein.
- e. Endorsements affecting coverage required shall be furnished with the certificates of insurance.
- f. Lewisville ISD must be named as an Additional Insured and the Certificate Holder.
- g. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, non-renewed or reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to LISD.
- h. All policies must be primary over any other valid and collectible insurance carried by Lewisville ISD.
- i. The contractor shall agree to waive all right of subrogation against Lewisville Independent School District ("LISD" or the "District"), its officials, employees, and volunteers for losses arising from work performed by contractor for the District.
- j. THE VENDOR SHALL HOLD THE DISTRICT HARMLESS FROM AND INDEMNIFY IT AGAINST ALL LIABILITY, INCLUDING ATTORNEY'S FEES, WHICH MAY ARISE FROM AND ACCRUE DIRECTLY FROM THE PERFORMANCE OF THE WORK OR ANY OBLIGATION OF CONTRACTOR OR FAILURE OF CONTRACTOR TO PERFORM ANY WORK OR OBLIGATION PROVIDED FOR IN THIS AGREEMENT.

### 2. COMMERCIAL GENERAL LIABILITY INSURANCE

- a. Minimum Limits of \$1,000,000 per Occurrence with an annual Aggregate of \$2,000,000 for Bodily Injury, Personal Injury and Property Damage.
- b. Coverage shall include premises/operations, product/completed operations hazards, and personal/advertising injury.
- c. The ISO Commercial General Liability Policy form ("Occurrence" form CG 0001, Ed. 2007) or broader. Any applicable exclusions, changes or limitations of coverage must be submitted to Lewisville ISD and must be approved by Lewisville ISD.
- d. Coverage for Environmental Liability must be included for any contractor providing or working with materials considered to be pollutants or pose an environmental risk.

### 3. AUTOMOBILE LIABILITY

- a. On Owned, Hired, and Non-owned motor vehicles used on the site or in connection therewith, a minimum Combined Single Limit of \$1,000,000 each Accident for Bodily Injury and Property Damage, to include Uninsured/Underinsured Motorist coverage.
- b. Coverage for Environmental Liability must be included for any contractor hauling fuel products or other products that pose an environmental risk.

### 4. WORKERS' COMPENSATION INSURANCE

- a. Statutory Limits
- b. Minimum Employer's Liability limits of: By Accident -- \$1,000,000 each accident; By Disease

## LEWISVILLE INDEPENDENT SCHOOL DISTRICT VENDOR INSURANCE REQUIREMENTS

- \$1,000,000 each Employee and Policy limits.
  - c. "Texas," must appear in Item 3A of the declarations page or Item 3C must contain the following: "All states except those listed in Item 3A and the state of NV, ND, OH, WA, WV, and WY."
  - d. Contractors that are sole-proprietors or that have no employees may request a waiver on the Lewisville ISD Vendor Insurance Acknowledgment Form.
5. PROFESSIONAL LIABILITY
- a. Required from all licensed or certified as professionals; e.g., engineers, architects, insurance agents, physicians, attorneys, teachers, etc.
  - b. Minimum Limits of \$1,000,000 per claim/wrongful act
6. CYBER & DATA BREACH
- a. Required from all contractors that have access to the LISD network, are providing software products, or have access to or collect any District or student personally identifiable information.
  - b. Minimum Limits of \$1,000,000 for all required coverages
  - c. Policy to include Privacy & Security Liability; Breach Response; Cyber Extortion; PCI Fines & Penalties
7. SEXUAL MISCONDUCT
- a. Required if District students or employees are present during contract performance (including virtually).
  - b. Minimum Limits of \$1,000,000 per Occurrence and annual Aggregate.
8. CRIME
- a. Required from all contractors working in or on District property without supervision, or when transporting money or securities on the District's behalf.
  - b. Minimum Limits of \$1,000,000 per Occurrence
  - c. Policy to include employee Dishonesty and Theft, including protection for the District from loss of district funds or property.
9. UMBRELLA OR EXCESS LIABILITY
- a. Required from all contractors performing high risk operations as designated by LISD
  - b. Coverage shall follow form of underlying Commercial General Liability, Employers Liability, and Automobile Liability policies.
10. CERTIFICATES OF INSURANCE and VERIFICATION OF COVERAGE

All Certificates of Insurance shall be prepared, signed, and executed by the insurance company or its authorized agent, and shall contain provisions warranting the following:

- a. Sets forth all endorsement and insurance coverage according to requirements and instructions contained herein.
  - Endorsements affecting coverage required shall be furnished with the certificates of insurance.
- b. Lewisville ISD must be named as an Additional Insured and the Certificate Holder.
- c. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, non-renewed or reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to LISD.
- d. All policies must be primary over any other valid and collectible insurance carried by Lewisville ISD.
- e. The contractor shall agree to waive all right of subrogation against Lewisville Independent School District ("LISD" or the "District"), its officials, employees, and volunteers for losses arising from work performed by contractor for the District.

## LEWISVILLE INDEPENDENT SCHOOL DISTRICT VENDOR INSURANCE REQUIREMENTS

- f. THE VENDOR SHALL HOLD THE DISTRICT HARMLESS FROM AND INDEMNIFY IT AGAINST ALL LIABILITY, INCLUDING ATTORNEY'S FEES, WHICH MAY ARISE FROM AND ACCRUE DIRECTLY FROM THE PERFORMANCE OF THE WORK OR ANY OBLIGATION OF CONTRACTOR OR FAILURE OF CONTRACTOR TO PERFORM ANY WORK OR OBLIGATION PROVIDED FOR IN THIS AGREEMENT.

### 11. NOTICES

All notices pertaining to Vendor insurance shall be given to Lewisville ISD at the following address:

Lewisville Independent School District  
Administrative Center  
Attn: Procurement and Contracts Room 220  
1565 W. Main St.  
Lewisville, TX 75067



# AIA® Document A201® – 2017

## General Conditions of the Contract for Construction

A201-2017 v2 (09-07-22) LISD

**for the following PROJECT:**

*(Name and location or address)*

ARBH File No. 4039.0058 Lewisville ISD/Food Service Renovations and Equipment at Multiple Campuses

**THE OWNER:**

*(Name, legal status and address)*

Lewisville Independent School District  
1565 W. Main  
Lewisville, TX 75067

Owner's Representative (sign contracts): Craig Martin – Executive Director of Procurement and Contracts

Owner's Representative (day-to-day operations): Randy Fite – Executive Director of Construction

**THE ARCHITECT:**

*(Name, legal status and address)*

VLK Architects  
5801 Tennyson Pkwy #100  
Plano, TX 75024

Architect's designated representative authorized to act on behalf of the Architect with respect to the Project: Marty Sims, AIA. The representative is a registered professional architect licensed to practice in the state of Texas.

**ADDITIONS AND DELETIONS:**

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

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

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

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| Surety, Consent of  | Use of Site   |
| 9.8.5, 9.10.2, 9.10.3   | 3.13, 6.1.1, 6.2.1  |
| Surveys   | Values, Schedule of   |
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| Suspension by the Owner for Convenience   | Waiver of Claims by the Architect   |
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| 2.3.3   | Weather Delays  |
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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.

**§ 1.1.1.1** The Contractor acknowledges and warrants that it has closely examined all the Contract Documents, that they are suitable and sufficient to enable the Contractor to complete the Work in a timely manner for the Contract Sum, and that they include all work, whether or not shown or described, which reasonably may be inferred to be required or useful for the completion of the Work in full compliance with all applicable codes, laws, ordinances, and regulations.

#### **§ 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. This Agreement was the result of negotiations between the Owner and Contractor, and has been reviewed by the Owner, Contractor and their respective counsel.

Accordingly, this Agreement shall be deemed to be the product of both parties and no ambiguity shall be construed in favor of or against either party.

#### **§ 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, plant, supplies, skill, supervision, transportation, services and other facilities and things necessary or proper or incidental to the carrying out and completion of the terms of the contract and all other items of cost or value needed to produce, construct and fully complete the public work identified by the contract documents. The Work may constitute the whole or a part of the Project.

#### **§ 1.1.4 The Project**

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

#### **§ 1.1.5 The Drawings**

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

#### **§ 1.1.6 The Specifications**

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

#### **§ 1.1.7 Instruments of Service**

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their

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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 Owner.

#### **§ 1.1.9 EQUAL TO (OR APPROVED EQUAL)**

Products by manufacturers other than those specified in the Contract Documents which the Contractor may submit for substitution as equal to those specified in the Contract Documents and which may be incorporated in the Work after review and acceptance by the Architect of the information about such products and acceptance by the Owner.

#### **§ 1.1.10 FORCE MAJEURE**

An act of God, fire, tornado, hurricane, flood, earthquake, explosion, war on American soil, civil disturbance, labor strikes, and similar unavoidable circumstances beyond Contractor's control, not caused by the negligent act or omission of Contractor or breach of this Agreement, its Subcontractors, or anyone else for whom Contractor is responsible, and not caused by Contractor's breach of a project labor or a "no strike" agreement.

#### **§ 1.1.11 KNOWLEDGE**

The terms "knowledge," "recognize" and "discover," their respective derivatives and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows or should know, recognizes or should recognize and discovers or should discover in exercising the care, skill, and diligence of a diligent and prudent contractor familiar with the work. Analogously, the expression "reasonably inferable" and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a diligent and prudent contractor familiar with the work and in accordance with the highest standards in the contracting profession.

### **§ 1.2 Correlation and Intent of the Contract Documents**

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

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

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

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

**§ 1.2.4** Specifications determine nature and setting, workmanship and quality of materials; Drawings establish the design, quantities, dimensions and details; schedules give locations.

**§ 1.2.5** Similar conditions may be illustrated by a single detailed drawing. The drawing may be subject to minor adjustments as directed by the Architect to satisfy exact and specific conditions. If discrepancies appear, Contractor shall request interpretation from the Architect prior to proceeding with the Work. Contractor shall not make such interpretations by himself, except at his own risk, responsibility and expense.

**§ 1.2.6** Should Drawings disagree in themselves or with Specifications and are not clarified by addendum, the better quality or greater amount of Work or materials shall be estimated upon and, unless otherwise ordered by Architect in

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writing, shall be performed and furnished. Figures given on Drawings govern scale measurements, and large-scale details govern small scale drawings.

### **§ 1.3 Capitalization**

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

### **§ 1.4 Interpretation**

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

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

**§ 1.5.1** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights, 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, 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 this Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

### **§ 1.6 Notice**

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

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

### **§ 1.7 Digital Data Use and Transmission**

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

### **§ 1.8 Building Information Models Use and Reliance**

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## **ARTICLE 2 OWNER**

### **§ 2.1 General**

**§ 2.1.1** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization.

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Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 Intentionally deleted.

### § 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 Intentionally deleted.

§ 2.2.3 Intentionally deleted.

§ 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 may furnish existing 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 the information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.4.1 The furnishing of such information by the Owner shall not relieve the Contractor from its duties under the Contract Documents, specifically as to inspection of the site and the Contract Documents. The Owner shall not be required to furnish the Contractor with any information as to subsurface conditions. If the Owner or the Architect has made any investigations of subsurface conditions, such investigations were made solely for the information of the Owner and Architect and not for the Contractor's information. No such information shall be construed to be a part of the Contract Documents. The Contractor acknowledges that, if Owner or Architect furnishes any such information to the Contractor, no waiver of the foregoing shall be implied, and the Contractor shall not be entitled to rely on such information but rather shall conduct its own investigation of such subsurface conditions. Further, no warranty of the accuracy of any such information shall be implied. The Contractor warrants that it is experienced in the type of Work undertaken pursuant to this contract and has the necessary expertise to form its own conclusions as to the necessity for conducting investigations of a type and nature as is calculated by Contractor to provide it with the necessary information so as to properly carry out the Work hereunder. . If the Contractor discovers conditions that vary significantly from those that it anticipated or that it would not have reasonable inferred from the

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examination of the site and available information, the Contractor may seek an equitable adjustment in the Contract Time or Contract Sum, or both.

**§ 2.3.5** The information identified in Section 2.3,4, above, is not warranted or represented by the Owner to be accurate. The Contractor will not be entitled to rely on it and shall exercise proper precautions relating to the safe performance of the Work. If the Contractor does rely on such information, then Contractor does so at its own risk.

When such information is provided by the Owner, the Contractor acknowledges that the Owner has not verified such information. Site plans prepared by Owner's design professionals or others are based on surveys performed by consultants, and have not been verified by the Owner. Site plans do not constitute any representation by the Owner to the Contractor of Site boundaries or other characteristics.

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

#### **§ 2.4 Owner's Right to Stop the Work**

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3, nor shall the exercise of the Owner's right hereunder give rise to any claim by Contractor for additions to the Contract Sum or Contract Time.

#### **§ 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 deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

#### **§ 2.6 ADDITIONAL RIGHTS**

**§ 2.6.1** The rights stated in Article 2 shall be in addition and not in limitation of any other rights of the Owner granted in the Contract Documents or at law or in equity.

**§ 2.6.2** The Owner reserves the right to have the Contractor and/or subcontractors remove person(s) and/or personnel from any and all work on the Project with cause but without cost to the Owner. Such requests from the Owner may be made verbally or in writing and may be done directly or indirectly through the Architect/Engineer or on-site representative. Cause may be, but not limited to, any of the following: incompetence, poor workmanship, poor scheduling abilities, poor coordination, disruptive to the facility or others, poor management, cause delay or delays, disruptive to the project, will not strictly adhere to facility procedures and project requirements either willfully or unknowingly, insubordination, drug/alcohol use, possession of contraband, belligerent acts or actions, etc. The Contractor shall provide replacement person(s) and/or personnel acceptable to the Owner at no cost to the Owner.

### **ARTICLE 3 CONTRACTOR**

#### **§ 3.1 General**

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

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

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

**§ 3.2 Review of Contract Documents and Field Conditions by Contractor**

**§ 3.2.1** Execution of the Contract by the Contractor is a representation that the Contractor has carefully examined the Contract Documents and the site, and represents that the Contractor is thoroughly familiar with the nature and location of the Work, the site, the specific conditions under which the Work is to be performed, and all matters that may in any way affect the Work or its performance. The Contractor further represents that as a result of such examinations and investigations, the Contractor thoroughly understands the Contract Documents and their intent and purpose, and is familiar with all applicable codes, ordinances, laws, regulations, and rules as they apply to the Work, and that the Contractor will abide by same. Claims for additional time or additional compensation as a result of the Contractor's failure to follow the foregoing procedure and to familiarize itself with all local conditions and the Contract Documents will not be permitted.

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. If a dimensional discrepancy exists, the Contractor shall take field measurements required for the proper fabrication and installation of the work. Upon commencement of any items of work, the Contractor shall be responsible for dimensions related to such item of Work and shall make any corrections necessary to make work properly fit at no additional cost to the Owner.

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

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

**§ 3.2.5** Contractor shall be responsible for, and shall repair at Contractor's own expense, any damage done to lines, cables, pipes, and pipelines identified to Contractor.

**§ 3.3 Supervision and Construction Procedures**

**§ 3.3.1** Contractor acknowledges that timely completion of the Work in accordance with the terms of said Documents is of crucial importance to Owner. Contractor shall provide the best skill and judgment of its officers and employees and shall cooperate with Owner and Architect to further the interests of Owner and to bring about timely completion of the Work. Contractor shall furnish sufficient business administration and superintendence and provide at all times an adequate supply of labor and materials to secure execution of the Work in the best and soundest way and in the most expeditious and economical manner consistent with the interests of Owner. In the event of delays and/or unforeseen events, whether or not the same should entitle Contractor to an adjustment in the Contract Sum and/or Contract Time pursuant to Articles 7 and 8 hereof, Contractor shall use diligent efforts to

maintain scheduled completion dates. Such efforts shall include rephrasing events, decreasing overly conservative durations on subsequent events, increasing activity overlap, and using float on noncritical events. The float available in the Progress Schedule shall be used by Owner and Contractor whenever possible to offset the impact of delays. Contractor shall be responsible for coordinating its Work with the Work of any other contractors and/or activities at the job site.

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

**§ 3.3.3** 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.

**§ 3.3.4** 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.

**§ 3.3.5** Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on the Work, including those with respect to the safety of persons and property and their protection from damages, injury, or loss. Contractor shall promptly remedy damage and loss to property at the site caused in whole or in part by Contractor, its Subcontractor, or anyone directly or indirectly employed by any of them or by anyone for whose acts they may be liable, except for damage or loss attributable solely to acts or omissions of Owner or Architect or by anyone for whose acts either of them may be liable and not attributable to the fault or negligence of Contractor, its Subcontractor, or anyone directly or indirectly employed by them. The foregoing obligations of the Contractor are in addition to Contractor's obligations under other provisions hereunder.

**§ 3.3.6** Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect or by test, inspections, or approvals required or performed by persons other than Contractor. Any direction or instruction by Owner in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Contractor's independent contractor status as described herein.

**§ 3.3.7** Contractor has the responsibility to ensure that all material suppliers and Subcontractors, their agents, and employees adhere to the Contract Documents, and that they order materials on time, taking into account the current market and delivery conditions, and that they provide materials on time. Contractor shall coordinate its Work with that of all others on the Project, including coordinating deliveries, storage, installations, and use of construction utilities. Contractor shall be responsible for the space requirements, location, and routing of its equipment. Contractor shall meet with all others involved before installation to plan the most effective and efficient method of overall installation.

**§ 3.3.7.1** Contractor acknowledges that the Work may be performed in connection with an educational facility which is currently occupied and in use. It is imperative that the Contractor's operations and the performance of the Work not interfere with, interrupt, disturb, or disrupt Owner's normal operations or facilities. Contractor agrees to and shall comply with all rules, regulations and requirements of the Owner and the school campus on which the Work is to be performed, and shall take all steps necessary to protect and guard the safety of the employees, students and invitees of Owner. Contractor shall exercise the utmost skill and judgement to ensure that continuing construction activities will not interfere with the use, occupancy and quiet enjoyment of facilities in use on the site. Contractor recognizes that the ongoing activities in proximity with its construction activities shall result in the need for a prompt and effective coordination of its services with those involved in the ongoing utilization of the premises.

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User Notes:

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Such coordination and adequate site access shall be the responsibility of the Contractor. Contractor understands and accepts the difficulties and costs associated with working in an existing facility and the potential delays and disruptions in its Work and has included such items in the Contract Time and in the Contract Sum. The Contractor shall perform all the Work in such a manner as to cause minimum interference with the operations of the Owner and other Contractors and Subcontractors on the site, and shall take all necessary precautions to protect the Work and the site and all persons and property thereon from damage or injury.

**§ 3.3.8** Contractor shall establish and maintain bench marks and all other grades, lines, and levels necessary for the Work; report errors or inconsistencies to Owner and Architect before commencing Work; and, if applicable, review the placement of the building(s) and permanent facilities on the site with Owner and Architect after all lines are staked out and before foundation Work is started. Contractor shall provide access to the Work for Owner, the Architect, other persons designated by Owner, and governmental inspectors. Any encroachments made by Contractor or its Subcontractors on adjacent properties caused by construction as revealed by an improvements survey, except for encroachments, arising from errors or omissions not reasonably discoverable by Contractor in the Contract Documents, shall be the sole responsibility of Contractor, and Contractor shall correct such encroachments within thirty (30) days of the improvement survey (or as soon thereafter as reasonably possible), at Contractor's sole cost and expense, either by the removal of the encroachment (and subsequent reconstruction on the Project site) or agreement with the adjacent property owner(s) (in form and substance satisfactory to Owner in its sole discretion) allowing the encroachments to remain.

**§ 3.3.9** Contractor shall verify at the Work site the measurements indicated on the Drawings and Specifications and shall establish correctly the lines, levels, and positions for the Work and be responsible for their accuracy and proper correlation with control lines, monuments, and data, as established by surveys furnished by Owner. Work shall be erected square, plumb, level, true to line and grade, in the exact plane and to the correct elevation and/or sloped to drain as indicated. To ensure the proper execution of its subsequent Work, Contractor shall measure all work already in place (including but not limited to utilities and grades installed or prepared by others) and shall at once report to Architect and Owner any discrepancy between said work and the Drawings and Specifications for the Work.

**§ 3.3.10** Any discrepancy or omission in the dimensions or elevations shown on the Drawings and Specifications or found in previous work which may prevent accurate layout or construction of the Work, shall immediately be reported by Contractor to Owner and Architect. If Contractor performs, permits, or causes performance of any Work when Contractor knows or reasonably should have known that such discrepancy or omission exists, without first obtaining further instruction from Architect or Owner, Contractor shall bear any and all costs arising therefrom including, without limitation, the costs of correction thereof without increase or adjustment in the Contract Sum. Omissions from the Drawings or Specifications, or the mis-description of details of Work which are reasonably inferable in order to carry out the intent of the Drawings and Specifications, or which are customarily performed, shall not relieve Contractor from performing such omitted or mis-described details of the Work, and they shall be performed as if fully and correctly set forth and described in the Drawings and Specifications, at no additional cost to Owner.

**§3.3.11** Contractor shall bear sole responsibility for design and execution of acceptable trenching and shoring procedures, in accordance with State of Texas HB 662 and HB 665. On trench excavations in excess of five feet in depth, Contractor shall pay a qualified engineer to prepare detailed plans and specifications directing Contractor in the safe execution of trenching and shoring, unless other procedures are reviewed and accepted in writing by the applicable authorities prior to commencing trenching 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 or authorized by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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**§ 3.4.3** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. Smoking and chewing of tobacco products is prohibited in enclosed new construction. No glass bottles shall be brought on the construction site or Owner's property by any construction personnel.

**§3.4.4** Not later than 30 days from the contract date, the Contractor shall provide a list showing the name of the manufacturer proposed to be used for each major product identified in the specifications and the name of the installing subcontractor.

**§3.4.5** After the Contract has been executed, the Owner and Architect will consider a formal request for the substitution of products equal to those specified.

**§3.4.6** By making requests for substitutions based on Subparagraph 3.4.5 above, 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 that specified;
- .2 represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;
- .3 certifies that the cost data presented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and
- .4 will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

**§3.4.7** The Contractor shall not use any materials in the work that contain lead or asbestos materials in excess of amounts allowed by local/state standards, laws, codes, rules and regulations, Federal Environmental Protection Agency (EPA) standards and the Federal Occupational Safety and Health Administration (OSHA) standards, whichever are most restrictive.

### **§ 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. The Contractor further warrants that all workmanship shall be of the highest quality and in full conformance with the Contract Documents, and that all labor shall be performed by persons well qualified in their respective trades. 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.

### **§ 3.6 Taxes**

The Contractor shall pay all sales, consumer, use and other similar taxes required by law. The Owner is an exempt organization as defined by the Limited Sales and Excise Use Tax Act of Texas. The Contractor may issue an exemption certification(s) in lieu of sales tax on the purchase, rental, or lease of all materials, supplies, equipment and other tangible personal property incorporated into the property being improved by virtue of this Contract, as well as all materials, supplies, equipment, and other tangible personal property used or consumed by the Contractor in performing this Contract with the Owner. The Contractor may issue exemption certificate(s) to its suppliers in lieu of said sales tax for all of said materials and supplies. The uses of said materials and supplies for which an exemption from the said sales tax is claimed and any such exemption certificate(s) shall comply with the applicable rulings of the State Comptroller.

### **§ 3.7 Permits, Fees, Notices and Compliance with Laws**

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

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

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

### **§ 3.7.4 Concealed or Unknown Conditions**

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 10 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

**§ 3.7.5** If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall 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.

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### **§ 3.9 Superintendent**

**§ 3.9.1** Prior to starting work, Contractor shall designate the Project Manager, Superintendent, and other key individuals who shall be assigned to the Project through and including Final Completion. The Superintendent shall be in attendance at the Project site throughout the Work, including completion of the punchlist. The Superintendent shall be approved by Owner in its sole discretion. Said representative shall be qualified in the type of Work to be undertaken and shall not be changed during the course of construction without the prior consent of Owner. Should a representative leave Contractor's employ, Contractor shall promptly designate a new representative. Owner shall have the right, at any time, to direct a change in Contractor's representative if their performance is unsatisfactory. In the event of such demand, Contractor shall, within seven (7) days after notification thereof, replace said individual(s) with an individual satisfactory to Owner, in Owner's sole discretion. If said replacement is disapproved, the Contractor may, at Owner's option, be terminated for cause. The Superintendent shall represent Contractor, and communications given to the Superintendent shall be as binding as if given to the Contractor. Owner shall have no obligation to direct or monitor Contractor's employees. Superintendent shall not be employed on any other project prior to final completion of this Project without Owner's written approval.

**§ 3.9.2** The Owner shall be notified not less than twenty-four (24) hours before any time that superintendent will not be present at the site for any reason except illness. If the reason is due to illness, then Owner shall be notified at the beginning of that day. Owner shall be notified of the identity of the acting superintendent. In the event the superintendent is absent from the site and notice has not been provided nor has an acting superintendent been assigned to the Work, the Contractor is subject to being back charged in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) for each day that the superintendent is absent from the site.

**§ 3.9.3** Intentionally deleted.

### **§ 3.10 Contractor's Construction and Submittal Schedules**

**§ 3.10.1** Contractor, promptly after being awarded the Contract for Construction and before commencing Work, shall prepare and submit for Owner's and Architect's review and approval a preliminary schedule for the Work. Within ten (10) days following Owner's Notice to Proceed, Contractor shall provide to Owner and Architect a schedule of performance of the Work, showing timely completion of the Work and timely achievement of each Milestone Date as required by the Contract for Construction and meeting all other requirements of this Section 3.10 (the "Progress Schedule"). Upon receipt of Contractor's proposed Progress Schedule, Owner may accept the proposed Progress Schedule as submitted or reject it, noting deficiencies. If such schedule is requested, the deficiencies noted shall be corrected and a new proposed Progress Schedule shall be submitted within ten (10) days. In any case, a complete Progress Schedule must be approved by Owner prior to any payments' being made.

**§ 3.10.2** The Progress Schedule shall be in the form of a network using critical path methodology (CPM), clearly showing construction activities, dependencies, and durations. The critical path activities shall be highlighted, float time for noncritical activities shall be shown, and the start and stop stated for each activity shall be listed. Longer-duration activities shall be broken into subactivities when the Work can be completed in phases (i.e., south half, north half, etc.). Contractor will be allowed flexibility in schedule, logic, and content; however, the Progress Schedule must be broken down by all trades, indicating ordering, delivery, and Milestone Dates, and the following activities must be included in all cases, if covered by the Scope of Work: (a) award of Contract; (b) site delivery and mobilization; (c) demolition; (d) pour foundations; (e) underground utilities; (f) pour slabs phase; (g) exterior walls phase; (h) columns; (i) floor and roof structure phase; (j) roof decking; (k) roofing (drying); (l) HVAC duct work; (m) fire sprinkler piping; (n) interior stud walls phase; (o) drywall; (p) lath and plaster phase; (q) painting phase; (r) ordering and delivery of long-lead materials; (s) completion of any parking structures; and (t) Milestone Dates. For all long-lead materials and for the purchase of any materials or equipment with a cost of \$5,000 or more, the Progress Schedule shall include a Material Purchase Log, indicating the item of material or equipment, the quantity required, the estimated lead time, and, to the extent known, Contractor's purchase order number, the date ordered, the scheduled delivery date, and the actual or committed delivery date.

**§ 3.10.3** The Contractor shall perform the Work in accordance with the Progress schedule as well as within the Milestone Dates and completion dates specified in the Contract for Construction. The times set forth in the Contract for Construction for all Milestone Dates and the time of completion must govern, and the Progress Schedule must be adjusted to meet these dates. Contractor shall maintain such Progress Schedule on a current basis in accordance with the provisions of this Section 3.10 and shall keep proper records to substantiate actual activity durations and completion dates.

**§ 3.10.4** Contractor shall submit to Owner monthly with each application for payment, and at such additional times as may be required by Owner, three copies of a Monthly Status Report in such form as Owner reasonably requests. Each Monthly Status Report shall concisely but completely describe, in narrative form, the then current status of the Work including, without limitation:

**§ 3.10.4.1** A review of actual progress during the month in comparison to the Progress Schedule and, if actual progress is behind schedule, discussion of any "workaround" or "catch-up plan" that Contractor has employed or will employ to recover the original Progress Schedule;

**§ 3.10.4.2** A concise statement of the outlook for meeting future Progress Schedule dates, and the reasons for any change in outlook from the previous report;

**§ 3.10.4.3** A concise statement of significant progress on major items of Work during the report period, and progress photographs as necessary to document the current status of the Work;

**§ 3.10.4.4** A review of any significant technical problems encountered during the months and the resolution or plan for resolution of such problems;

**§ 3.10.4.5** An explanation of any corrective action taken or proposed;

**§ 3.10.4.6** A complete review of the status of Change Orders, including a review of any changes in the critical path of the construction Progress Schedule which result from Change Orders approved by Owner during the month, as well as a review of the schedule impact of Change Order requests then pending;

**§ 3.10.4.7** A summary of any Claims anticipated by Contractor with respect to the Work, including the anticipated cost and schedule impacts of any such Claims;

**§ 3.10.4.8** A cumulative summary of the number of days of, and the extent to which the progress of the Work was delayed by, any of the causes for which Contractor could be entitled to an extension of the Contract Time;

**§ 3.10.4.9** A marked copy of the current Progress Schedule showing the status of each element of the Work; and

**§ 3.10.4.10** An updated Material Purchase Log.

**§ 3.10.5** Contractor shall submit to Owner monthly with each application for payment, and at such additional times as may be required by Owner, for Owner's review and approval, three copies of an updated Progress Schedule meeting all the requirements of this Section 3.10, including:

**§ 3.10.5.1** Actual versus estimated percent completion for each activity and Project total;

**§ 3.10.5.2** Actual versus estimated work in place for each activity and Project total;

**§ 3.10.5.3** Actual versus estimated manpower for each activity and Project total;

**§ 3.10.5.4** Actual versus estimated cash flow; and

**§ 3.10.5.5** Any change in the critical path.

**§ 3.10.6** If the progress of the Work is behind the Progress Schedule to such an extent that Owner reasonably determines that Contractor will be unable to meet any of the critical path dates set forth in the Progress Schedule, including without limitation any Milestone Date, Owner may direct Contractor to accelerate its work, at Contractor's own cost, without any adjustment to the Contract Sum. Such acceleration may include employing such additional forces or paying such additional overtime wages as may be required to place the progress of the Work in conformity with the Progress Schedule and to assure timely substantial completion of the Work and achievement of all Milestone Dates.

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§ 3.10.7 In addition, if the progress of the Work is behind the Progress Schedule to such an extent that Owner reasonably determines that Contractor will be unable to meet any of the critical path dates set forth in the Progress Schedule, including without limitation any Milestone Date, or Contractor fails to take prompt and adequate corrective action to Owner's satisfaction to bring the progress of the Work in compliance with the Progress Schedule, Owner may, in addition to any other right or remedy provided herein, proceed as provided in Sections 2.3, 2.4., or 2.5.

§ 3.10.8 Whenever significant changes to the Project occur, such as added or deleted activities, they must be reflected on a revised Progress Schedule to be submitted Owner for its review and approval.

§ 3.10.9 Contractor shall be responsible on a daily basis to maintain all information which affects the length of specific activities on the Progress Schedule, times when Contractor will perform specific jobs, and other data relevant to the Progress Schedule as required by the Architect or Owner. Contractor shall make available at any time such information for review by the Architect or Owner.

§ 3.10.10 Contractor shall prepare and keep current, for Architect's review, a schedule of submittals which is coordinated with Contractor's Progress Schedule, and allow the Architect reasonable time to review submittals.

### § 3.11 Documents and Samples at the Site

The Contractor shall maintain at the Project site, the Contract Documents, including the Drawings, Specifications, Addenda, 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 and paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

### § 3.12 Shop Drawings, Product Data and Samples

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

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

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

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

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

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

**§ 3.12.7** The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect. Should the Contractor Subcontractors or Sub-subcontractors install, construct, erect or perform any portion of the Work without approval of any requisite submittal, the Contractor shall bear the costs, responsibility, and delay for removal, replacement, and/or correction of any and all items, material, and /or labor.

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

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

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

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

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

### **§ 3.13 Use of Site**

**§ 3.13.1** 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.

**§3.13.2** The Contractor shall ensure that the Work is at all times performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent to the site of the Work shall be free from all debris, building materials and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Contract Document, Contractor shall not interfere with the occupancy or beneficial use of (1) any areas and buildings adjacent to the site of the Work or (2) the Work in the event of partial occupancy.

Contractor shall assume full responsibility for any damage to the property comprising the Work or to the owner or occupant of any adjacent land or areas resulting from the performance of the Work.

**§3.13.3** Operating systems, utilities and services, serving the existing building and project site shall be maintained in operation to serve the needs of the building and site not involved in the Work under this Contract at all times during the progress of the Work under the Contract, except for such short periods as are absolutely necessary to perform the Work. Such operating systems, utilities and services include, but are not limited to, water, electric power, natural gas, heating, ventilating, air conditioning, sanitary sewer, fire alarm, telephone, security, cable television and communications cabling. Prior to interrupting or otherwise affecting any such operating system, utility or service, Contractor shall consult with Owner and Architect to establish a mutually satisfactory schedule for cut over, cut off, disruption or other change in operation of the affected system, utility or service. Owner may require that such cut over, cut off, disruption or change in operation be made to occur after normal working hours or on holidays or weekends. Such agreed upon times and dates shall be clearly indicated in a written memorandum among the parties; and once established and agreed to, schedules of disruption of systems, services and utilities shall be strictly adhered to, unless later changed in writing by mutual agreement of the parties.

**§3.13.4** The Contractor shall not permit any workers to use any existing facilities at the site, including, without limitation, lavatories, toilets, entrances, and parking areas other than those designated by Owner. The Contractor, Subcontractors of any tier, suppliers and employees shall comply with instructions or regulations of the Owner governing access to, operation of, and conduct while in or on the premises and shall perform all Work required under the Contract Documents in such a manner as not to unreasonably interrupt or interfere with the conduct of Owner's operations.

**§3.13.5** The Contractor shall provide and maintain temporary "all-weather" emergency vehicle access roads as Fire Lanes, as required by the appropriate governmental entity having jurisdiction, until complete construction of all fire lanes. Fire lanes shall be maintained and remain accessible at all times.

#### **§ 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 and shall be responsible for daily clean-up of construction materials and dust control. 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 and shall clean all glass surfaces and leave the Work "broom clean", or its equivalent, except as otherwise specified.

**§ 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, and their representatives, access to the Work in preparation and progress at all times and wherever located and shall provide proper and safe facilities for such access.

#### **§ 3.17 Royalties, Patents and Copyrights**

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

patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

### **§ 3.18 Indemnification**

**§ 3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Owner's officers and trustees, 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 in whole or in part by any act or omission, whether negligent or otherwise, 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 which 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 (subject to the mutual waiver of consequential damages in Section 15.1.6), compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

**§ 3.19** The Contractor shall maintain a set of Record Drawings on site in good condition and shall use colored pencils to mark-up said set with "record information" in a legible manner to show: (1) bidding addendums, (2) executed change orders, (3) deviations from the Drawings made during construction; (4) details in the Work not previously shown; (5) changes to existing conditions or existing conditions found to differ from those shown on any existing drawings; (6) the actual installed position of equipment, piping, conduits, light switches, electric fixtures, circuiting, ducts, dampers, access panels, control valves, drains, openings, and stub-outs; and (7) such other information as either Owner or Architect may reasonably request. The prints for Record Drawing use will be a set of "blue line" prints provided by Architect to Contractor at the start of construction. Upon Substantial Completion of the Work, Contractor shall deliver all Record Drawings to Owner and Architect for approval. If not approved, Contractor shall make the revisions requested by Architect or Owner. Final payment and any retainage shall not be due and owing to Contractor until the final Record Drawings marked by Contractor as required above are delivered to Owner.

**§ 3.20** The Contractor shall submit four (4) volumes of operating instructions and service manuals to the Architect at the time of Substantial Completion, or as soon thereafter as practicable. Submission of all of the following shall be a condition precedent to Final Payment to the Contractor. The operating instructions and service manuals shall contain:

- .1 Start-up and Shutdown Procedures: Provide a step-by-step write up of all major equipment. When manufacturer's printed start-up, trouble shooting and shut-down procedures are available, they may be incorporated into the operating manual for reference.
- .2 Operating Instructions: Written operating instructions shall be included for the efficient and safe operation of all equipment.
- .3 Equipment List: List of all major equipment as installed shall include model number, capacities, flow rate, and name-plate data.
- .4 Service Instructions: The Contractor shall be required to provide the following information for all pieces of equipment.
  - (a) Recommended spare parts including catalog number and name of local suppliers or factory representative.
  - (b) Belt sizes, types, and lengths.
  - (c) Wiring diagrams.
- .5 Manufacturer's Certificate of Warranty: Manufacturer's Certificate of Warranty shall be obtained for all major equipment. Warranty shall be obtained for at least one year from the date of Substantial Completion. Where longer period is required by the Contract Documents, the longer period shall govern.

.6 Parts catalogs: For each piece of equipment furnished, a parts catalog or similar document shall be provided which identifies the components by number for replacement ordering.

## **ARTICLE 4 ARCHITECT**

### **§ 4.1 General**

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

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

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

### **§ 4.2 Administration of the Contract**

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

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

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

### **§ 4.2.4 Communications**

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 13.5.2 and 13.5.3, 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.

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

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

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

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

§ 4.2.11 The Architect will interpret 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 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.

§ 4.2.13 The Owner shall have final authority on questions relating to aesthetic effect, provided such authority is exercised in a way which is consistent with the intent expressed in the Contract Documents, and any such determination shall be communicated through the Architect.

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

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

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

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

**§ 5.2.5** Upon request, the Contractor shall provide to the Owner an executed copy of all subcontracts, purchase orders, and other agreements relating to the Work.

**§ 5.2.6** The Contractor shall not sublet the Work as a whole. The approval of subcontractors in no way relieves the Contractor from full responsibility.

## **§ 5.3 Subcontractual Relations**

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

## **§ 5.4 Contingent Assignment of Subcontracts**

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

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

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

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

**§ 5.4.3** Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall be relieved of any legal responsibility under the subcontract if the successor contractor assumes Owner's obligations under the subcontract.

## **§5.5 OWNER PAYMENTS TO SUBCONTRACTORS**

**§5.5.1** In the event of any default hereunder by the Contractor, or in the event the Owner or Architect fails to approve any Application for Payment that is not the fault of a Subcontractor, the Owner may make direct payment to the Subcontractor, less appropriate retainage. In that event, the amount paid the Subcontractor shall be deducted from the payment to the Contractor.

**§5.5.2** Nothing contained herein shall create any obligation on the part of the Owner to make any payments to any Subcontractor, and no payment by the Owner to any Subcontractor shall create any obligation to make any further payments to any Subcontractor.

## **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 report to the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for such proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible

for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

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

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

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

### **§ 6.3 Owner's Right to Clean Up**

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

## **ARTICLE 7 CHANGES IN THE WORK**

### **§ 7.1 General**

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

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

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

### **§ 7.2 Change Orders**

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

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

**§ 7.2.2** Acceptance of a disbursement from any allowance fund, contingency fund or acceptance of a Change Order by the Contractor shall constitute full accord and satisfaction for any and all claims, whether direct or indirect, including, but not limited to, impact, delay or acceleration damages, arising from the subject matter of the disbursement or Change Order.

### **§ 7.3 Construction Change Directives**

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

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

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

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

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

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

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

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

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

*(Paragraphs Deleted)*

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

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

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

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#### **§ 7.4 Minor Changes in the Work**

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

#### **§ 7.5 AGREED OVERHEAD AND PROFIT RATES**

**§ 7.5.1** For any adjustments to the Contract Sum based on other than the unit price method, overhead and profit combined shall be calculated at the following percentages of the cost attributable to the change in the Work:

- .1 For the Contractor for Work performed by the Contractor's own forces, ten percent (10%) of the cost;
- .2 For the Contractor, for Work performed by the Contractor's Subcontractors, five percent (5%) of the amount due the Subcontractor;
- .3 For each Subcontractor or Sub-subcontractor involved, for Work performed by that Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;
- .4 For each Subcontractor, for Work performed by the Subcontractor's Sub-subcontractors, five percent (5%) of the amount due the Sub-subcontractor;
- .5 Costs to which overhead and profit is to be applied shall be determined in accordance with Sub-paragraphs 7.3.7.1 through 7.3.7.5;
- .6 When both additions and credits are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any;
- .7 To facilitate checking of quotations for extras or credits, all proposals shall be accompanied by a complete itemization of costs including labor, material, and subcontracts. When major cost items are Subcontracts, they shall be itemized also.
8. For the Construction Manager when there are adjustments to the Contract sum that increase the GMP total, the Construction Manager's fee shall be at the percentage established in the contract and the combined total of the Construction Manager's fee plus the subcontractors overhead and profit should not exceed 15%.

### **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. Claims for extension of time shall be stated in whole or half calendar days.

**§ 8.1.5** The Contractor shall be substantially complete with all work shown on or before the date specified for substantial completion in the Contract Documents. Extensions to the Completion Date due to weather delays will be granted only in accordance with Section 8.3.5 below.

#### **§ 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. The Contractor shall be substantially complete with all work shown on or before the date

specified for substantial completion in the Contract Documents. Extensions to the Completion Date will be granted only in accordance with Section 8.3.5 below.

### **§ 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 a wrongful act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by other causes that the Architect and Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Extensions of time shall be granted only because of delay preventing the execution of the major items of work critical to the schedule for completion of the Work. Contractor shall not be entitled to receive an extension of time equal to the delay unless a written claim is made within seven (7) days after the occurrence of the event giving rise to the delay. Under no circumstances shall the Owner be liable to pay the Contractor any compensation for delays described in this Section.

**§ 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 caused by either party under other provisions of the Contract Documents.

**§ 8.3.4** In the event that the Owner has specified a stipulated completion date, the provisions of 8.3.1 through 8.3.3 do not apply. However, in the event of delay(s) fully beyond the Contractor's control, the Owner may authorize by change order reimbursement for additional costs to accelerate the construction in order to maintain the stipulated completion date.

**§ 8.3.5** The Contractor shall anticipate and include in the construction schedule lost time due to adverse weather conditions in accordance with the number of Lost Time Workdays per month in the Dallas/Fort Worth area in accordance with the following schedule:

January - 7  
February - 7  
March - 7  
April - 8  
May - 9  
June - 7  
July - 5  
August - 5  
September - 6  
October - 6  
November - 6  
December - 6

A request for a time extension based on unusually adverse weather conditions will not be granted unless the cumulative actual days of Lost Time Workdays for the period when the critical path of the Project is subject to impact from Lost Time Workdays exceeds the cumulative number of expected Lost Time Workdays for period of the construction duration using the assigned days per month in this Section. The final calculation of entitlement to a time extension cannot be made until the Project is completed and the time extensions for unusually adverse weather may not be made until that time. However, Contractor will submit claimed Lost Time Workdays in accordance with the submission time provided in 8.3.1. No day on which substantial Contractor forces on the Project are unable to perform work for more than fifty percent (50%) of the usual workday will be counted as a Lost Time Workday. Lost Time Workdays will not be calculated for any period when the critical path of the Project is not subject to impact from adverse weather conditions. Extensions of Contract Time shall be the sole remedy for delays due to weather conditions; compensation shall not be available.

## **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 maximum amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. The Contract Sum may only be increased pursuant to a Change Order signed by the Owner. Completion of the Work is a condition precedent to Owner's obligation to pay the full Contract Sum.

**§ 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**

Before any work is done on the site and before the first Application for Payment, the Contractor shall submit to the Architect a schedule or breakdown showing the respective amounts (called "values" for convenience) properly allocable to the various portions of the Work and aggregating the total contract sum. Each respective amount or value shall include its part of overhead and profit so that the sum of the items will total the contract sum. Such schedule of values will be prepared so as to facilitate payments by the Contractor to his Subcontractors and shall follow the trade divisions of the specifications so far as practicable. Such schedule and the amount therein shall be in such detail and supported by such data to substantiate its accuracy as the Architect may require. Such schedule, when approved by the Architect, unless it be found to be in error, shall be used only as a basis for the Contractor's Applications for Payment and shall not be taken as evidence of market or other value.

### **§ 9.3 Applications for Payment**

**§ 9.3.1** At least fifteen (15) days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G702, Application and Certification for Payment, supported by AIA Document G703, Continuation Sheet, submitted in quadruplicate.

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

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

**§ 9.3.1.3** Until Substantial Completion, the Owner shall pay 95 percent of the amount due the Contractor on account of progress payments.

**§ 9.3.1.4** Contractor is to submit to Architect within 15 days of execution of Owner/Contractor Agreement proposed sample of Lien Waiver and Bills Paid affidavit forms for review and acceptance for this Contract.

**§ 9.3.1.5** Monthly Applications for Payment shall include waivers of liens for all work included in the previous months' application for payment. Waiver of Liens for the subcontractors and materialmen shall be the total amount paid prior to the previous months' application for payment.

**§ 9.3.1.6** With each Application for Payment, Contractor shall certify that such Application for Payment represents a just estimate of cost reimbursable to the Contractor under the terms of the Contract Documents and shall also certify that there are not any Mechanics' or Materialmen's Liens outstanding at the date of this Application for Payment, that all due and payable bills with respect to the Work have been paid to date or shall be paid from the proceeds of that Application for Payment, and that there is no known basis for the filing of any Mechanics' or Materialmen's Liens against the Surety in connection with the Work, and that waivers and bills paid affidavit forms from all subcontractors and materialmen have been or will be obtained in such form as the Owner may require.

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

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

#### **§ 9.4 Certificates for Payment**

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

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

**§9.4.3** Contractor shall include as a separate and distinct line item on his pay request a value for trenching and shoring operations. Contractor shall attach to pay request a notarized letter from shoring engineer that designed Contractor's trenching and shoring systems, addressed to Owner, attesting that engineer has (1) reviewed trenching and shoring systems installed in field and found them in conformance with shoring engineer's detailed plans and specifications, (2) line item on Contractor's pay request accurately represents work installed and/or materials on site, and (3) engineer recommends payment to Contractor of line item for trenching and shoring based on engineer's observations.

**§9.4.4** Contractor's monthly Application for Payment that is submitted without required letter from Contractor's shoring engineer described by Subparagraph 9.4.3 is subject to return without review until letter is submitted.

#### **§ 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;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 **failure to submit a written plan indicating action by Contractor to regain time schedule for completion of Work within the Contract**

Time.

**§ 9.5.2** Intentionally deleted.

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

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

#### **§ 9.6 Progress Payments**

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

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

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

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

**§ 9.6.5** 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 any Work.

**§ 9.6.7** Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall

require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

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

### **§ 9.7 Failure of Payment**

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of 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 construction is sufficiently complete in accordance with the Contract Documents so that the Owner may occupy and utilize the Work as a whole for the use for which it is intended.

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

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

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

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

### **§ 9.9 Partial Occupancy or Use**

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for

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correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

**§ 9.9.3** In the event of partial use and occupancy by Owner, the Work, or any portion thereof, shall not be deemed substantially complete until the entire Work is substantially complete; and such partial use and occupancy shall not commence any warranty period under the Contract Documents.

### **§ 9.10 Final Completion and Final Payment**

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

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect and Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in full force after final payment is currently in effect, (3) a written statement satisfactory to the Owner that the insurance will 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; (7) certification by the Contractor that (i) all Work has been completed in accordance with the Contract Documents, (ii) the final Application for Payment includes all claims of the Contractor against the Owner arising in connection with the Project and constitutes a waiver and release of any and all claims not presented in that application except for claims arising out of third party actions, cross-claims and counterclaims, and (iii) the Record Drawings maintained by the Contractor pursuant to the Contract Documents and delivered to the Owner or Architect are complete and accurate in all respects; and (8) evidence of compliance with all requirements of the Contract Documents, such as notices, certificates, affidavits, or other requirements to complete obligations under the Contract Documents, including but not limited to (i) instruction of the Owner's representatives in the operation of mechanical, electrical, plumbing, and other systems; (ii) delivery of keys to the Owner with keying schedule (master, submaster, and special keys); (iii) delivery to the Owner of the Contractor's warranties as set forth in the Contract Documents and each written warranty and assignment thereof prepared in duplicate, certificates of inspections, and bonds for the Architect's review and delivery to the Owner; (iv) delivery to the Owner of printed or typewritten operating, servicing, maintenance and cleaning instructions for all Work (parts lists and special tools for mechanical and electrical work) in approved form; (v) delivery to the Owner of the Record Drawings; (vi) delivery to the Owner of a Final Waiver and Release of Liens covering all Work for itself and for each Subcontractor, vendor, and material supplier who furnished labor, materials, and services to the Work, executed by an authorized officer and duly notarized; (vii) delivery to the Owner of final waivers of lien from each subcontractor and material supplier who furnished labor, materials, and services to the Work, executed by their respective officers and duly notarized; and (viii) delivery of sales and use tax certificate number of the Contractor. In addition to the foregoing, all other submissions required by other Articles and Paragraphs of the Specifications and other Contract Documents shall be submitted to the Owner before approval of final payment. If a Subcontractor refuses to furnish a release or waiver required by the Owner and Owner's lender (if any), the Contractor must furnish a bond satisfactory to the Owner

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and Owner's lender (if any) to indemnify the Owner and Owner's lender (if any) against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and attorneys' fees. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor must 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.

**§9.10.2.1** In addition to items listed in 9.10.2 to be submitted before Final Payment will be made or remaining retainage released, Contractor shall deliver a permanent certificate of occupancy from local inspection authorities.

**§ 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 not constitute a waiver of any Claims by the Owner.  
*(Paragraphs Deleted)*

**§ 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.

**§ 9.10.6 In addition to any other damages, failure of the Contractor to achieve final completion within sixty (60) days after the specified date of Substantial Completion, subject to authorized extensions, will result in the Contractor's being responsible for excess Architect's fees. Excess Architect's fees include the cost incurred after sixty (60) days beyond the date of Substantial Completion. Excess Architect's fees will be deducted from the amount due the Contractor.**

A. The Contractor shall deliver to the Owner his written guarantee, made out to the Owner and in form satisfactory to the Owner, guaranteeing all of the work under the contract to be free from faulty materials in every particular, and free from improper workmanship, and against injury from proper and usual wear; and agreeing to replace or re-execute without cost to the Owner such work as may be found to be improper or imperfect, and to make good all damage caused to other work or materials, due to such required replacement or re-execution. This guarantee shall be made to cover a period of twelve (12) months from the date of substantial completion as certified by the Architect under this Contract. This guarantee must be furnished to the Owner and approved by him before acceptance and final payment is made.

B. Contractor shall provide Owner with copies of all guarantees or warranties which have been made to the Contractor by suppliers or subcontractors as required hereunder, together with an assignment of such warranties and guarantees to the Owner; however, such assignment shall not relieve the Contractor of the responsibility stated in subparagraph (A) above in case of failure of subcontractors or supplies to fulfill the provision of such warranties or guarantees.

C. Neither the Final Certificate, nor payment, nor any provision in the Contract Documents shall relieve the Contractor of responsibility for neglect or faulty materials or workmanship during the period covered by the guarantee.

## **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.

**§ 10.2.2.1** If the Contractor fails to give such notices or fails to comply with such laws, ordinances, rules, regulations, and lawful orders, it shall be liable for and shall indemnify and hold harmless the Owner and the Architect and their respective employees, officers, and agents, against any resulting fines, penalties, judgments, or damages, including reasonable attorneys' fees, imposed on or incurred by the parties indemnified hereunder.

**§ 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 except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

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

### **§ 10.2.8 Injury or Damage to Person or Property**

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

**§ 10.2.9** The Contractor shall protect and be responsible for any damage to his work or material, from the date of the

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agreement until the acceptance of the work and shall make good without cost to the Owner, any damage or loss that may occur during this period, except that in the event of partial or total occupancy by the Owner prior to final acceptance, the Owner shall be responsible for any damage caused by such partial or total occupancy. The Contractor shall handle all materials directed, so that it may be inspected by the Architect. All material affected by the weather shall be covered and protected to keep it free from damage while being transported to the site, as well as when it is stored on the site.

**§10.2.10** The Contractor shall have full responsibility for preventing overstress of any structure or any part of member of it during construction. The Contractor shall fully check the effect of his operations in this regard, and shall provide all temporary support and connections required.

**§10.2.11** The Contractor at his own expense and option shall employ watchmen or erect adequate fencing at such time as necessary to protect or attend his work, including times when building exterior is breached to protect it and its contents.

**§ 10.2.12** The Contractor shall not cause or permit any "Hazardous Materials" (as defined herein) to be brought upon, kept, or used in or about the Project site except to the extent such Hazardous Materials: (i) are necessary for the prosecution of the Work; (ii) are required pursuant to the Contract Documents; and (iii) have been approved in writing by Owner. Any Hazardous Materials allowed to be used on the Project site shall be used, stored, and disposed of in compliance with all applicable laws relating to such Hazardous Materials. Any unused or surplus Hazardous Materials, as well as any other Hazardous Materials that have been placed, released, or discharged on the Project site by the Contractor or any of its employees, agents, suppliers, or Subcontractors, shall be removed from the Project site at the earlier of: (i) the completion of the Work requiring the use of such Hazardous Materials; (ii) the completion of the Work as a whole; or use of such Hazardous Materials; (ii) the completion of the Work as a whole; or (iii) within twenty-four (24) hours following the Owner's demand for such removal. Such removal shall be undertaken by the Contractor at its sole cost and expense and shall be performed in accordance with all applicable laws. Any damage to the Work, the Project site, or any adjacent property resulting from the improper use of or any discharge or release of Hazardous Materials shall be remedied by the Contractor at its sole cost and expense and in compliance with all applicable laws. The Contractor shall immediately notify the Owner of any release or discharge of any Hazardous Materials on the Project site. The Contractor shall provide the Owner with copies of all warning labels on products which the Contractor or any of its Subcontractors will be using in connection with the Work, and the Contractor shall be responsible for making any and all disclosures required under applicable "Community Right-to-Know" or similar laws. The Contractor shall not clean or service any tools, equipment, vehicles, materials, or other items in such a manner as to cause a violation of any laws or regulations relating to Hazardous Materials. All residue and waste materials resulting from any such cleaning or servicing shall be collected and removed from the Project site in accordance with all applicable laws and regulations. The Contractor shall immediately notify the Owner of any citations, orders, or warnings issued to or received by the Contractor, or of which the Contractor otherwise becomes aware, which relate to any Hazardous Materials on the Project site. Without limiting any other indemnification provisions pursuant to law or specified in this Agreement, the Contractor shall indemnify, defend (at the Contractor's sole cost, and with legal counsel approved by Owner), and hold the Owner and Architect harmless from and against any and all claims, demands, losses, damages, disbursements, liabilities, obligations, fines, penalties, costs, and expenses for removing or remedying the effect of any Hazardous Materials on, under, from, or about the Project site, arising out of or relating to, directly or indirectly, the Contractor's failure to comply with any of the requirements herein. As used herein, the term "Hazardous Materials" means any hazardous or toxic substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table, or listed by the Environmental Protection Agency as hazardous substances, and any substances, materials, or wastes that are or become regulated under federal, state, or local law.

### **§ 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 in writing.

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

**§ 10.3.3** Intentionally 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** Intentionally deleted.

#### **§ 10.4 Emergencies**

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

### **ARTICLE 11 INSURANCE AND BONDS**

#### **§ 11.1 Contractor's Insurance and Bonds**

**§ 11.1.1** The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, including private entities performing Work at the site and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project:

- .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 or persons or entities excluded by statute from the requirements of Clause 11.1.1 but required by the Contract Documents to be covered by the insurance required by that Clause;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

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

**§ 11.1.2.1** 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.

The Construction Manager agrees to waive all rights of subrogation against the Owner, its trustees, officers, officials, employees, volunteers, and agents for losses arising from work performed by or on behalf of the Construction Manager. Waivers of subrogation in favor of the Owner shall be endorsed on all General Liability, Auto Liability, and Workers' Compensation policies.

*(Paragraph Deleted)*

"Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:

1. Premises Operations (including X, C and U coverage as applicable). (No exclusion for explosion, collapse or underground operations).
2. Independent Contractor's Protective
3. Products and Completed Operations.
4. Personal Injury Liability.
5. Contractual, including specified provision for Contractor's obligation under Paragraph 3.18.
6. Owned, non-owned and hired motor vehicles."

**§11.1.2.2** The insurance required by Subparagraph 11.1.1 shall be written by an insurance company having an A rating or better by A.M. Best and shall be written in limits for not less than the minimum required by law or the following:

1. Worker's Compensation:
  - (a) State: Statutory
  - (b) Applicable Federal: Statutory
  - (c) Employer's Liability: \$500,000 per Accident
    - \$500,000 Disease, Policy Limit
    - \$500,000 Disease, Each Employee
2. Comprehensive or Commercial General Liability (including Premises-Operations; Independent Contractors' Protective; Products and Completed Operations):
  - (a) Each Occurrence: \$1,000,000
    - Aggregate: \$2,000,000
  - (b) Products and Completed Operations to be maintained for two years after final payment:
    - \$2,000,000 Aggregate
- (c) Coverage to be extended to include the interests of the Architect and his consultants.
  - (d) No total pollution exclusion should be included.
3. Business Auto \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage.
4. Umbrella Excess Liability:
  - (a) Over Primary Insurance: \$1,000,000 Each Occurrence

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5. Occurrence Policy: \$1,000,000 Each Occurrence  
(applicable for asbestos related projects only)

If the General Liability coverage is provided by a Commercial General Liability Policy on a claims-made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of coverage required to be maintained after final payment, certified in accordance with Subparagraph 9.10.2.

**§11.1.2.3** Each policy of insurance listed above shall be purchased and maintained by the Contractor and each certificate of insurance for said insurance shall contain a complete waiver of subrogation against Owner, Architect and Architect's Engineers. Each certificate shall also list Owner, the Contractor of the Owner, Architect and Architect's Engineers as a party insured.

**§11.1.2.4** Contractor shall not commence work at the site under this Contract until he has obtained all required insurance and submitted appropriate certifications.

**§ 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. 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. If this insurance is written on the Comprehensive General Liability policy form, the Certificates shall be AIA Document G705, Certificate of Insurance. If this insurance is written on a Commercial General Liability policy form, ACORD form 25S will be acceptable.

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

#### **§ 11.2 Owner's Insurance**

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

#### **§ 11.3 Waivers of Subrogation**

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

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in

accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

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

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

#### **§11.5 Adjustment and Settlement of Insured Loss**

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

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

#### **§ 11.6 PERFORMANCE BOND AND PAYMENT BOND**

**§ 11.6.1** The Contractor shall furnish a Performance Bond and a Payment Bond. The amount of each bond shall be equal to 100 percent of the Contract Sum. Any person or firm executing a bond upon the Contractor's Work under this Contract shall be deemed to have consented in advance to any changes in the Work made by order of Owner as set forth in Article 7; and any such changes made under these provisions shall in no way alter or impair the obligations of the person or firm executing such bond.

**§11.6.1.1** The Contractor shall deliver the required bonds to the Owner not later than three days following the date the Agreement is entered into, or if the Work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to the commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished.

**§11.6.1.2** The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney, indicating the monetary limit of such power.

**§11.6.1.3** The Contractor shall provide each bond on the form required by Owner.

**§11.6.1.4** No sureties will be accepted by the Owner who are now in default or delinquent on any bonds or who are interested in any litigation pending against the Owner during the term of this Contract. All bonds shall be executed by a corporate surety authorized to do business in the State of Texas. The surety company or companies furnishing the surety bonds for this Contract must show a Texas Department of Insurance underwriting limitation not less than the total amount of the Contract. Each bond shall be executed by the Contractor and the Owner. Should any surety be determined unsatisfactory at any time by the Owner, notice will be given to the Contractor, and the Contractor shall immediately provide a new surety (complying with Article 11) acceptable to the Owner and at no additional cost to the Owner. This Contract shall not be valid nor will any payments be due or paid until approval of each bond by the Owner.

**§ 11.6.2** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment

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of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 Uncovering of Work**

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

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

### **§ 12.2 Correction of Work**

#### **§ 12.2.1 Before Substantial Completion**

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

#### **§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

**§ 12.2.2.3** The one-year period for correction of Work shall be extended from the date corrective Work is performed by the Contractor.

**§ 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.

**§12.2.6** Owner shall have the right to operate equipment until defects are corrected and warranties met, and shall have the right to operate rejected equipment until it is replaced without charge for depreciation, use or wear.

**§ 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.

**§13.1.2** The Owner has adopted a prevailing wage rate schedule as more fully described in the Project Manual or other Contract Documents. The Contractor and each Subcontractor shall pay to all laborers, workmen and mechanics employed by them in the execution of this Work not less than such rates for each craft or type of workman or mechanic needed to execute the Work. If it becomes necessary to employ any person in a trade or occupation not herein listed, such person shall be paid not less than an hourly rate fairly comparable to the prevailing wage rates adopted by Owner. This determination of prevailing wages shall not be construed to prohibit the payment of more than the rates shown. In compliance with Texas Government Code, Chapter 2258, the Contractor and each subcontractor shall forfeit, as a penalty to the Owner, sixty dollars (\$60.00) for each laborer, workman or mechanic employed by them, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the rates adopted by Owner.

**§ 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 Written Notice**

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

**§ 13.4 Rights and Remedies**

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

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

**§ 13.5 Tests and Inspections**

**§ 13.5.1** Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such

procedures. The Owner shall bear costs of (1) tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded and (2) tests, inspections, or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

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

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

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

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

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

#### **§ 13.6 Interest**

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at twelve percent (12%) per annum.

#### **§ 13.7 Time Limits on Claims**

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

#### **§13.8 Equal Opportunity**

**§13.8.1** The Contractor shall maintain policies of employment as follows:

**§13.8.1.1** The Contractor and Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

**§13.8.1.2** The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

#### **§13.9 Criminal Background**

**§13.9.1** No person shall be engaged by the Contractor or any Sub-Contractor to work on Owner property where students are present who have charges pending, or who have been convicted, received probation or deferred adjudication for the following:

1. Any offense against a child;

2. Any sex offense;
3. Any crimes against persons involving weapons or violence;
4. Any felony offense involving controlled substances;
5. Any felony offense against property; or
6. Any other offense that the Owner believes might compromise the safety of students, staff or property.

It shall be the responsibility of the Contractor and Sub-Contractor to ensure compliance with this provision.

Contractor will obtain all required national Criminal History Record Information ("CHRI"), pursuant to Texas Education Code section 22.0834 and Texas Government Code 411.0845, on all employees, subcontractors of every tier ("Subcontractor"), Subcontractor's employees, independent contractors, applicants, agents, or consultants, if (1) the person will have continuing duties related to the Project and (2) the duties are or will be performed on Owner's property and the person(s) will or may have direct contact with students ("Covered Employee"). Contractor shall assume all expenses for obtaining CHRI. Any Covered Employee shall be disqualified and prohibited from performing any contract duties or services if that Covered Employee has been convicted of one of the following offenses, if at the time of the offense the victim was under eighteen (18) or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense to (a) or (b) under federal law or the laws of another state ("Disqualifying Criminal History"). The Contractor shall certify to the Owner in writing that it has complied with this section and that none of its Covered Employees have a Disqualifying Criminal History on a form provided by the Owner. Contractor agrees that if it receives information that a Covered Employee is arrested or convicted for any of the Disqualifying Criminal History offenses during the performance of this contract, Contractor will immediately remove the Covered Employee from Owner's property or other location where students are regularly present, and notify the Owner of said removal within three (3) days of doing so.

Contractor understands that any failure to comply with the requirements of this section may be grounds for termination of the contract. Instructions for complying with CHRI requirements are available from the Owner.

**§13.9.2** Any person associated with, engaged and/or representing on site or doing business with the Owner shall submit such background information as may be requested by the Owner in order to enable the Owner to perform criminal background evaluations/investigations for the following individuals:

1. General Contractor - Project Manager, Superintendent, Field Engineers and Foreman.
2. Subcontractors - Project Manager, Superintendent, Foreman.
3. Trades - Management personnel on site.

A copy of Criminal History Check form shall be available for review by the employer and affected party at the Owner's Administrative Office during normal business hours.

### **§13.10 Working Time and Working Restrictions**

**§13.10.1** THE ENTIRE BUILDING SHALL REMAIN TOBACCO-FREE AT ALL TIMES.

**§13.10.2** Normal working hours and normal working days for Contractor's work on this Project shall be between 7:00 a.m. and 8:00 p.m., Monday through Friday, except as otherwise noted below. The Owner may require that certain limited portions of the Work be accomplished after normal working hours or other than on normal working days.

**§13.10.3** Should Contractor desire to carry out portions of the Work at times other than between the hours and days stipulated above, he shall submit written request to do so to the Owner together with specific calendar days and hours he wishes to work and a description of the activities he proposes to carry out during those times. Construction activities will not be permitted at times other than those specified or subsequently approved in writing by the Owner.

Only those activities specifically approved by Owner will be permitted during hours or on days other than those stipulated above.

**§13.10.4** No extension of time will be granted and no "extra" or additional amount will be paid due to failure of Owner to approve performing of construction activities during hours other than those stipulated above.

**§13.10.5** Work performed other than between 7:00 a.m. and 8:00 p.m., Monday through Friday, shall be done at no additional cost, whether work at other times is required by Owner or requested by Contractor and approved by

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**§13.10.6** If necessary in order to complete Work within time fixed in Contract or any extension thereof, Contractor shall request approval from Owner to perform work before 7:00 a.m. or after 8:00 p.m. or on weekends or holidays, and if Owner approves, shall perform work during such additional times and on such additional days as have been approved, at no additional cost to Owner. Work during such additional times and on such additional days shall continue only so long as is necessary to return work to on schedule or to complete the Work within the Contract Date.

**§13.10.7** The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Agreement and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

## **ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT**

### **§ 14.1 Termination by the Contractor**

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

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- .3 Because the Owner has not made payment on a Certificate for Payment approved by the Architect within thirty (30) days after receipt of written notification from Contractor that the time for payment stated in the Contract Documents has expired.

**§ 14.1.2** Intentionally deleted.

**§ 14.1.3** If one of the reasons described in Section 14.1.1 exists, the Contractor may, upon fourteen (14) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work properly executed, as well as reasonable overhead and profit on Work not executed.

**§ 14.1.4** Intentionally deleted.

**§14.1.5** Any payment due to, or recovered by, Contractor under paragraph 14.1.3 above shall not exceed the remainder, if any, after subtracting the total of the previous payments made by Owner to Contractor from the lesser of:

- (a) the fair value (not Contractor's cost or profit) of the properly executed Work; or
- (b) an amount determined by multiplying the contract price, as adjusted by change orders, times the percentage of Work completed.

### **§ 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; or
- .5 Contractor becomes insolvent or makes a general assignment for the benefit of its creditors.

**§ 14.2.2** When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient.

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

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

§ 14.2.4.1 The costs of finishing the Work include, without limitation, all direct costs incurred by the Owner by reason of the termination of the Contractor as stated herein, including without limitation, attorney and other professional fees, insurance premiums and interest costs.

#### § 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 may include profit. No adjustment shall be made to the extent

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

#### § 14.4 Termination by the Owner for Convenience

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

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the 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 10 days after occurrence of the event giving rise to such Claim or within 10 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.

### **§ 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 Architect will prepare Change Orders and 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 or for extra costs or damages, he shall give the Architect and the Owner written notice thereof within ten days after the event giving rise to such claim.

This notice shall be given by the Contractor before proceeding to execute the portion of the Work that is the subject of the Claim except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with paragraph 10.4. Such claim, with the recommendation of the Architect, will be submitted to the Owner and its action shall be final and binding. Failure to give such notice shall be a waiver of the claim and such claim or possible claim shall be invalid and unenforceable unless so made. Compliance by the Contractor with this paragraph does not validate any claim which is otherwise invalid.

### **§ 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, the Contractor shall provide written notice as required by Sections 8.3.1 and 8.3.5.

**§ 15.1.6.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented in accordance with Section 8.3.5.

### **§ 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.

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**§ 15.2 Initial Decision - Intentionally Deleted**

*(Paragraphs Deleted)*

**§ 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 the institution of legal or equitable proceedings by either party.

**§ 15.3.2** The parties shall endeavor to resolve their Claims by mediation which shall be in accordance with the provisions of Section 154.023, Texas Civil Practice and Remedies Code. A request for mediation shall be filed in writing with the other party to this Contract.

**§ 15.3.3** Intentionally deleted.

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

**§ 15.4 Arbitration – Intentionally Deleted**

*(Paragraph Deleted)*

**§ARTICLE 16: ADDITIONAL PROVISIONS FOR LIQUIDATED DAMAGES**

**§16.1 Contractual Provisions**

**§16.1.1** It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the Contract of the Work to be done hereunder are essential conditions of this Contract.

**§16.1.2** Contractor agrees that said work shall be prosecuted in accordance with the provisions of this Contract at such a rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and Owner, that the time for the completion of the Work described herein is a reasonable time for completion of the same.

**§16.1.3** If the said Contractor shall neglect, fail or refuse to complete the Work within the time indicated above or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this Contract, to pay to the Owner the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of Contract, as hereinafter set forth for **\$2,000.00, for each and every calendar day** that the Contractor shall be in default after the time stipulated in the Contract for completing the Work. Such damages shall be cumulative and not in lieu of any other rights or remedies of Owner against Contractor as a result of any breach by Contractor hereunder.

**§16.1.4** The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain.

**§16.1.5** It is further agreed that time is of the essence of each and every portion of this Contract and of the Specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever, and where under the Contract an additional time is allowed for the completion of any work, the new time fixed by such an extension shall be of the essence of this Contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess costs when the delay in completion of the Work is due:

- .1** To any performance, priority or allocated order duly issued by the Government;
- .2** To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not limited to, acts of God, or of the public enemy, acts of the Owner, acts of another contractor in performance of a

contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather;

.3 To any delays of subcontractors or suppliers occasioned by any of the causes specified in subparagraphs of this Article.

§16.1.6 Provided, further, that the Contractor shall, within 10 days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the Contract, notify the Owner in writing of the cause of the delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

# Additions and Deletions Report for AIA® Document A201® – 2017

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### ARBH File No. 4039.0058 Lewisville ISD/Food Service Renovations and Equipment at Multiple Campuses

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### Lewisville Independent School District 1565 W. Main Lewisville, TX 75067

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### Owner's Representative (sign contracts): Craig Martin – Executive Director of Procurement and Contracts

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### Owner's Representative (day-to-day operations): Randy Fite – Executive Director of Construction

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### VLK Architects 5801 Tennyson Pkwy #100 Plano, TX 75024

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### Architect's designated representative authorized to act on behalf of the Architect with respect to the Project: Marty Sims, AIA. The representative is a registered professional architect licensed to practice in the state of Texas.

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**ARTICLE 1 GENERAL PROVISIONS**

...

§ 1.1.1.1 The Contractor acknowledges and warrants that it has closely examined all the Contract Documents, that they are suitable and sufficient to enable the Contractor to complete the Work in a timely manner for the Contract Sum, and that they include all work, whether or not shown or described, which reasonably may be inferred to be required or useful for the completion of the Work in full compliance with all applicable codes, laws, ordinances, and regulations.

...

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. This Agreement was the result of negotiations between the Owner and Contractor, and has been reviewed by the Owner, Contractor and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of both parties and no ambiguity shall be construed in favor of or against either party.

...

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.~~ plant, supplies, skill, supervision, transportation, services and other facilities and things necessary or proper or incidental to the carrying out and completion of the terms of the contract and all other items of cost or value needed to produce, construct and fully complete the public work identified by the contract documents. The Work may constitute the whole or a part of the Project.

## PAGE 11

The Initial Decision Maker is the ~~person identified~~ Owner.

...

### § 1.1.9 EQUAL TO (OR APPROVED EQUAL)

...

~~in the Agreement to render initial decisions~~ Products by manufacturers other than those specified in the Contract Documents which the Contractor may submit for substitution as equal to those specified in the Contract Documents and which may be incorporated in the Work after review and acceptance by the Architect of the information about such products and acceptance by the Owner.

...

### § 1.1.10 FORCE MAJEURE

...

~~en-Claims~~ An act of God, fire, tornado, hurricane, flood, earthquake, explosion, war on American soil, civil disturbance, labor strikes, and similar unavoidable circumstances beyond Contractor's control, not caused by the negligent act or omission of Contractor or breach of this Agreement, its Subcontractors, or anyone else for whom Contractor is responsible, and not caused by Contractor's breach of a project labor or a "no strike" agreement.

...

### § 1.1.11 KNOWLEDGE

...

~~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.~~ The terms "knowledge," "recognize" and "discover," their respective derivatives and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows or should know, recognizes or should recognize and discovers or should discover in exercising the care, skill, and diligence of a diligent and prudent contractor familiar with the work. Analogously, the expression "reasonably inferable" and

similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a diligent and prudent contractor familiar with the work and in accordance with the highest standards in the contracting profession.

...

§1.2.4 Specifications determine nature and setting, workmanship and quality of materials; Drawings establish the design, quantities, dimensions and details; schedules give locations.

...

§1.2.5 Similar conditions may be illustrated by a single detailed drawing. The drawing may be subject to minor adjustments as directed by the Architect to satisfy exact and specific conditions. If discrepancies appear, Contractor shall request interpretation from the Architect prior to proceeding with the Work. Contractor shall not make such interpretations by himself, except at his own risk, responsibility and expense.

## PAGE 12

§1.2.6 Should Drawings disagree in themselves or with Specifications and are not clarified by addendum, the better quality or greater amount of Work or materials shall be estimated upon and, unless otherwise ordered by Architect in writing, shall be performed and furnished. Figures given on Drawings govern scale measurements, and large-scale details govern small scale drawings.

...

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

...

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

## PAGE 13

§ 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. ~~Intentionally deleted.~~

...

§ 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.~~Intentionally deleted.

...

~~§ 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.~~Intentionally deleted.

...

~~§ 2.3.4~~ The Owner ~~shall furnish~~ may furnish existing 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 the information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

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~~§ 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~~ 2.3.4.1 The furnishing of such information by the Owner shall not relieve the Contractor from its duties under the Contract Documents, specifically as to inspection of the site and the Contract Documents. The Owner shall not be required to furnish the Contractor with any information as to subsurface conditions. If the Owner or the Architect has made any investigations of subsurface conditions, such investigations were made solely for the information of the Owner and Architect and not for the Contractor's information. No such information shall be construed to be a part of the Contract Documents. The Contractor acknowledges that, if Owner or Architect furnishes any such information to the Contractor, no waiver of the foregoing shall be implied, and the Contractor shall not be entitled to rely on such information but rather shall conduct its own investigation of such subsurface conditions. Further, no warranty of the accuracy of any such information shall be implied. The Contractor warrants that it is experienced in the type of Work undertaken pursuant to this contract and has the necessary expertise to form its own conclusions as to the necessity for conducting investigations of a type and nature as is calculated by Contractor to provide it with the necessary information so as to properly carry out the Work hereunder. . If the Contractor discovers conditions that vary significantly from those that it anticipated or that it would not have reasonable inferred from the examination of the site and available information, the Contractor may seek an equitable adjustment in the Contract Time or Contract Sum, or both.

...

~~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.~~ § 2.3.5 The information identified in Section 2.3.4, above, is not warranted or represented by the Owner to be accurate. The Contractor will not be entitled to rely on it and shall exercise proper precautions relating to the safe performance of the Work. If the Contractor does rely on such information, then Contractor does so at its own risk. When such information is provided by the Owner, the Contractor acknowledges that the Owner has not verified such information. Site plans prepared by Owner's design professionals or others are based on surveys performed by consultants, and have not been verified by the Owner. Site plans do not constitute any representation by the Owner to the Contractor of Site boundaries or other characteristics.

...

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 ~~6.1.3.6.1.3~~, nor shall the exercise of the Owner's right hereunder give rise to any claim by Contractor for additions to the Contract Sum or Contract Time.

...

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

...

## § 2.6 ADDITIONAL RIGHTS

...

§ 2.6.1 The rights stated in Article 2 shall be in addition and not in limitation of any other rights of the Owner granted in the Contract Documents or at law or in equity.

...

~~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.~~§ 2.6.2 The Owner reserves the right to have the Contractor and/or subcontractors remove person(s) and/or personnel from any and all work on the Project with cause but without cost to the Owner. Such requests from the Owner may be made verbally or in writing and may be done directly or indirectly through the Architect/Engineer or on-site representative. Cause may be, but not limited to, any of the following: incompetence, poor workmanship, poor scheduling abilities, poor coordination, disruptive to the facility or others, poor management, cause delay or delays, disruptive to the project, will not strictly adhere to facility procedures and project requirements either willfully or unknowingly, insubordination, drug/alcohol use, possession of contraband, belligerent acts or actions, etc. The Contractor shall provide replacement person(s) and/or personnel acceptable to the Owner at no cost to the Owner.

PAGE 15

§ 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~~ carefully examined the Contract Documents and the site, and represents that the Contractor is thoroughly familiar with the nature and location of the Work, the site, the specific conditions under which the Work is to be performed, and ~~correlated personal observations with requirements of the Contract Documents~~ all matters that may in any way affect the Work or its performance. The Contractor further represents that as a result of such examinations and investigations, the Contractor thoroughly understands the Contract Documents and their intent and purpose, and is familiar with all applicable codes, ordinances, laws, regulations, and rules as they apply to the Work, and that the Contractor will abide by same. Claims for additional time or additional compensation as a result of the Contractor's failure to follow the foregoing procedure and to familiarize itself with all local conditions and the Contract Documents will not be permitted.

...

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. If a dimensional discrepancy exists, the Contractor shall take field measurements required for the proper fabrication and installation of the work. Upon commencement of any items of work, the Contractor shall be responsible for dimensions related to such item of Work and shall make any corrections necessary to make work properly fit at no additional cost to the Owner.

...

**§ 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~~ authorities unless such error, inconsistency or omission could be ascertained from a careful study of the Contract Documents.

...

**§ 3.2.5** Contractor shall be responsible for, and shall repair at Contractor's own expense, any damage done to lines, cables, pipes, and pipelines identified to Contractor.

**PAGE 16**

**§ 3.3.1** Contractor acknowledges that timely completion of the Work in accordance with the terms of said Documents is of crucial importance to Owner. Contractor shall provide the best skill and judgment of its officers and employees and shall cooperate with Owner and Architect to further the interests of Owner and to bring about timely completion of the Work. Contractor shall furnish sufficient business administration and superintendence and provide at all times an adequate supply of labor and materials to secure execution of the Work in the best and soundest way and in the most expeditious and economical manner consistent with the interests of Owner. In the event of delays and/or unforeseen events, whether or not the same should entitle Contractor to an adjustment in the Contract Sum and/or Contract Time pursuant to Articles 7 and 8 hereof, Contractor shall use diligent efforts to maintain scheduled completion dates. Such efforts shall include rephasing events, decreasing overly conservative durations on subsequent events, increasing activity overlap, and using float on noncritical events. The float available in the Progress Schedule shall be used by Owner and Contractor whenever possible to offset the impact of delays. Contractor shall be responsible for coordinating its Work with the Work of any other contractors and/or activities at the job site.

...

**§ 3.3.2** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract

Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

...

**§ 3.3.2-3.3.3** 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.

...

**§ 3.3.3-3.3.4** 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.

...

**§ 3.3.5** Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on the Work, including those with respect to the safety of persons and property and their protection from damages, injury, or loss. Contractor shall promptly remedy damage and loss to property at the site caused in whole or in part by Contractor, its Subcontractor, or anyone directly or indirectly employed by any of them or by anyone for whose acts they may be liable, except for damage or loss attributable solely to acts or omissions of Owner or Architect or by anyone for whose acts either of them may be liable and not attributable to the fault or negligence of Contractor, its Subcontractor, or anyone directly or indirectly employed by them. The foregoing obligations of the Contractor are in addition to Contractor's obligations under other provisions hereunder.

...

**§ 3.3.6** Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect or by test, inspections, or approvals required or performed by persons other than Contractor. Any direction or instruction by Owner in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Contractor's independent contractor status as described herein.

...

**§ 3.3.7** Contractor has the responsibility to ensure that all material suppliers and Subcontractors, their agents, and employees adhere to the Contract Documents, and that they order materials on time, taking into account the current market and delivery conditions, and that they provide materials on time. Contractor shall coordinate its Work with that of all others on the Project, including coordinating deliveries, storage, installations, and use of construction utilities. Contractor shall be responsible for the space requirements, location, and routing of its equipment. Contractor shall meet with all others involved before installation to plan the most effective and efficient method of overall installation.

**PAGE 17**

**§ 3.3.7.1** Contractor acknowledges that the Work may be performed in connection with an educational facility which is currently occupied and in use. It is imperative that the Contractor's operations and the performance of the Work not interfere with, interrupt, disturb, or disrupt Owner's normal operations or facilities. Contractor agrees to and

shall comply with all rules, regulations and requirements of the Owner and the school campus on which the Work is to be performed, and shall take all steps necessary to protect and guard the safety of the employees, students and invitees of Owner. Contractor shall exercise the utmost skill and judgement to ensure that continuing construction activities will not interfere with the use, occupancy and quiet enjoyment of facilities in use on the site. Contractor recognizes that the ongoing activities in proximity with its construction activities shall result in the need for a prompt and effective coordination of its services with those involved in the ongoing utilization of the premises. Such coordination and adequate site access shall be the responsibility of the Contractor. Contractor understands and accepts the difficulties and costs associated with working in an existing facility and the potential delays and disruptions in its Work and has included such items in the Contract Time and in the Contract Sum. The Contractor shall perform all the Work in such a manner as to cause minimum interference with the operations of the Owner and other Contractors and Subcontractors on the site, and shall take all necessary precautions to protect the Work and the site and all persons and property thereon from damage or injury.

...

§ 3.3.8 Contractor shall establish and maintain bench marks and all other grades, lines, and levels necessary for the Work; report errors or inconsistencies to Owner and Architect before commencing Work; and, if applicable, review the placement of the building(s) and permanent facilities on the site with Owner and Architect after all lines are staked out and before foundation Work is started. Contractor shall provide access to the Work for Owner, the Architect, other persons designated by Owner, and governmental inspectors. Any encroachments made by Contractor or its Subcontractors on adjacent properties caused by construction as revealed by an improvements survey, except for encroachments, arising from errors or omissions not reasonably discoverable by Contractor in the Contract Documents, shall be the sole responsibility of Contractor, and Contractor shall correct such encroachments within thirty (30) days of the improvement survey (or as soon thereafter as reasonably possible), at Contractor's sole cost and expense, either by the removal of the encroachment (and subsequent reconstruction on the Project site) or agreement with the adjacent property owner(s) (in form and substance satisfactory to Owner in its sole discretion) allowing the encroachments to remain.

...

§ 3.3.9 Contractor shall verify at the Work site the measurements indicated on the Drawings and Specifications and shall establish correctly the lines, levels, and positions for the Work and be responsible for their accuracy and proper correlation with control lines, monuments, and data, as established by surveys furnished by Owner. Work shall be erected square, plumb, level, true to line and grade, in the exact plane and to the correct elevation and/or sloped to drain as indicated. To ensure the proper execution of its subsequent Work, Contractor shall measure all work already in place (including but not limited to utilities and grades installed or prepared by others) and shall at once report to Architect and Owner any discrepancy between said work and the Drawings and Specifications for the Work.

...

§ 3.3.10 Any discrepancy or omission in the dimensions or elevations shown on the Drawings and Specifications or found in previous work which may prevent accurate layout or construction of the Work, shall immediately be reported by Contractor to Owner and Architect. If Contractor performs, permits, or causes performance of any Work when Contractor knows or reasonably should have known that such discrepancy or omission exists, without first obtaining further instruction from Architect or Owner, Contractor shall bear any and all costs arising therefrom including, without limitation, the costs of correction thereof without increase or adjustment in the Contract Sum. Omissions from the Drawings or Specifications, or the mis-description of details of Work which are reasonably inferable in order to carry out the intent of the Drawings and Specifications, or which are customarily performed, shall not relieve Contractor from performing such omitted or mis-described details of the Work, and they shall be performed as if fully and correctly set forth and described in the Drawings and Specifications, at no additional cost to Owner.

...

§3.3.11 Contractor shall bear sole responsibility for design and execution of acceptable trenching and shoring procedures, in accordance with State of Texas HB 662 and HB 665. On trench excavations in excess of five feet in depth, Contractor shall pay a qualified engineer to prepare detailed plans and specifications directing Contractor in the safe execution of trenching and shoring, unless other procedures are reviewed and accepted in writing by the applicable authorities prior to commencing trenching work.

...

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

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§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. Smoking and chewing of tobacco products is prohibited in enclosed new construction. No glass bottles shall be brought on the construction site or Owner's property by any construction personnel.

...

§3.4.4 Not later than 30 days from the contract date, the Contractor shall provide a list showing the name of the manufacturer proposed to be used for each major product identified in the specifications and the name of the installing subcontractor.

...

§3.4.5 After the Contract has been executed, the Owner and Architect will consider a formal request for the substitution of products equal to those specified.

...

§3.4.6 By making requests for substitutions based on Subparagraph 3.4.5 above, 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 that specified;

...

.2 represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;

...

.3 certifies that the cost data presented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and

...

.4 will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

...

§3.4.7 The Contractor shall not use any materials in the work that contain lead or asbestos materials in excess of

...

amounts allowed by local/state standards, laws, codes, rules and regulations, Federal Environmental Protection

...

Agency (EPA) standards and the Federal Occupational Safety and Health Administration (OSHA) standards,

...

whichever are most restrictive.

...

**§ 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. The Contractor further warrants that all workmanship shall be of the highest quality and in full conformance with the Contract Documents, and that all labor shall be performed by persons well qualified in their respective trades. 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-Owner.~~

...

~~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.~~ all sales, consumer, use and other similar taxes required by law. The Owner is an exempt organization as defined by the Limited Sales and Excise Use Tax Act of Texas. The Contractor may issue an exemption certification(s) in lieu of sales tax on the purchase, rental, or lease of all materials, supplies, equipment and other tangible personal property incorporated into the property being improved by virtue of this Contract, as well as all materials, supplies, equipment, and other tangible personal property used or consumed by the Contractor in performing this Contract with the Owner. The Contractor may issue exemption certificate(s) to its suppliers in lieu of said sales tax for all of said materials and supplies. The uses of said materials and supplies for which an exemption from the said sales tax is claimed and any such exemption certificate(s) shall comply with the applicable rulings of the State Comptroller.

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User Notes:

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 14-10 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, ~~Contractor~~ Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may ~~submit a Claim~~ proceed as provided in Article 15.

~~§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who~~ Prior to starting work, Contractor shall designate the Project Manager, Superintendent, and other key individuals who shall be assigned to the Project through and including Final Completion. The Superintendent shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the throughout the Work, including completion of the punchlist. The Superintendent shall be approved by Owner in its sole discretion. Said representative shall be qualified in the type of Work to be undertaken and shall not be changed during the course of construction without the prior consent of Owner. Should a representative leave Contractor's employ, Contractor shall promptly designate a new representative. Owner shall have the right, at any time, to direct a change in Contractor's representative if their performance is unsatisfactory. In the event of such demand, Contractor shall, within seven (7) days after notification thereof, replace said individual(s) with an individual satisfactory to Owner, in Owner's sole discretion. If said replacement is disapproved, the Contractor may, at Owner's option, be terminated for cause. The Superintendent shall represent Contractor, and communications given to the superintendent ~~Superintendent shall be as binding as if given to the Contractor. Owner shall have no obligation to direct or monitor Contractor's employees. Superintendent shall not be employed on any other project prior to final completion of this Project without Owner's written approval.~~

...

~~§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. Owner shall be notified not less than twenty-four (24) hours before any time that superintendent will not be present at the site for any reason except illness. If the reason is due to illness, then Owner shall be notified at the beginning of that day. Owner shall be notified of the identity of the acting superintendent. In the event the superintendent is absent from the site and notice has not been provided nor has an acting superintendent been assigned to the Work, the Contractor is subject to being back charged in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) for each day that the superintendent is absent from the site.~~

...

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

...

~~§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the~~

Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and Contract for Construction and before commencing Work, shall prepare and submit for Owner's and Architect's review and approval a preliminary schedule for the Work. Within ten (10) days following Owner's Notice to Proceed, Contractor shall provide to Owner and Architect a schedule of performance of the Work, showing timely completion of the Work and timely achievement of each Milestone Date as required by the Contract for Construction and meeting all other requirements of this Section 3.10 (the "Progress Schedule"). Upon receipt of Contractor's proposed Progress Schedule, Owner may accept the proposed Progress Schedule as submitted or reject it, noting deficiencies. If such schedule is requested, the deficiencies noted shall be corrected and a new proposed Progress Schedule shall be submitted within ten (10) days. In any case, a complete Progress Schedule must be approved by Owner prior to any payments' being made.

...

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. § 3.10.2 The Progress Schedule shall be in the form of a network using critical path methodology (CPM), clearly showing construction activities, dependencies, and durations. The critical path activities shall be highlighted, float time for noncritical activities shall be shown, and the start and stop stated for each activity shall be listed. Longer-duration activities shall be broken into subactivities when the Work can be completed in phases (i.e., south half, north half, etc.). Contractor will be allowed flexibility in schedule, logic, and content; however, the Progress Schedule must be broken down by all trades, indicating ordering, delivery, and Milestone Dates, and the following activities must be included in all cases, if covered by the Scope of Work: (a) award of Contract; (b) site delivery and mobilization; (c) demolition; (d) pour foundations; (e) underground utilities; (f) pour slabs phase; (g) exterior walls phase; (h) columns; (i) floor and roof structure phase; (j) roof decking; (k) roofing (drying); (l) HVAC duct work; (m) fire sprinkler piping; (n) interior stud walls phase; (o) drywall; (p) lath and plaster phase; (q) painting phase; (r) ordering and delivery of long-lead materials; (s) completion of any parking structures; and (t) Milestone Dates. For all long-lead materials and for the purchase of any materials or equipment with a cost of \$5,000 or more, the Progress Schedule shall include a Material Purchase Log, indicating the item of material or equipment, the quantity required, the estimated lead time, and, to the extent known, Contractor's purchase order number, the date ordered, the scheduled delivery date, and the actual or committed delivery date.

...

The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule § 3.10.3 The Contractor shall perform the Work in accordance with the Progress schedule as well as within the Milestone Dates and completion dates specified in the Contract for Construction. The times set forth in the Contract for Construction for all Milestone Dates and the time of completion must govern, and the Progress Schedule must be adjusted to meet these dates. Contractor shall maintain such Progress Schedule on a current basis in accordance with the provisions of this Section 3.10 and shall keep proper records to substantiate actual activity durations and completion dates.

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shall be revised at appropriate intervals as required by the conditions of the Work § 3.10.4 Contractor shall submit to Owner monthly with each application for payment, and at such additional times as may be required by Owner, three copies of a Monthly Status Report in such form as Owner reasonably requests. Each Monthly Status Report shall concisely but completely describe, in narrative form, the then current status of the Work including, without limitation:

...

§ 3.10.4.1 A review of actual progress during the month in comparison to the Progress Schedule and, if actual progress is behind schedule, discussion of any "workaround" or "catch-up plan" that Contractor has employed or will employ to recover the original Progress Schedule;

...

and Project. § 3.10.4.2 A concise statement of the outlook for meeting future Progress Schedule dates, and the reasons for any change in outlook from the previous report;

...

~~§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain~~

§ 3.10.4.3 A concise statement of significant progress on major items of Work during the report period, and progress photographs as necessary to document the current status of the Work;

...

§ 3.10.4.4 A review of any significant technical problems encountered during the months and the resolution or plan for resolution of such problems;

...

§ 3.10.4.5 An explanation of any corrective action taken or proposed;

...

§ 3.10.4.6 A complete review of the status of Change Orders, including a review of any changes in the critical path of the construction Progress Schedule which result from Change Orders approved by Owner during the month, as well as a review of the schedule impact of Change Order requests then pending;

...

§ 3.10.4.7 A summary of any Claims anticipated by Contractor with respect to the Work, including the anticipated cost and schedule impacts of any such Claims;

...

§ 3.10.4.8 A cumulative summary of the number of days of, and the extent to which the progress of the Work was delayed by, any of the causes for which Contractor could be entitled to an extension of the Contract Time;

...

~~current submittal schedule.~~ § 3.10.4.9 A marked copy of the current Progress Schedule showing the status of each element of the Work; and

...

§ 3.10.4.10 An updated Material Purchase Log.

...

~~shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not §~~  
**3.10.5 Contractor shall submit to Owner monthly with each application for payment, and at such additional times as may be required by Owner, for Owner's review and approval, three copies of an updated Progress Schedule meeting all the requirements of this Section 3.10, including:**

...

**§ 3.10.5.1 Actual versus estimated percent completion for each activity and Project total;**

...

**§ 3.10.5.2 Actual versus estimated work in place for each activity and Project total;**

...

**§ 3.10.5.3 Actual versus estimated manpower for each activity and Project total;**

...

**§ 3.10.5.4 Actual versus estimated cash flow; and**

...

**§ 3.10.5.5 Any change in the critical path.**

...

~~be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow § 3.10.6~~ **If the progress of the Work is behind the Progress Schedule to such an extent that Owner reasonably determines that Contractor will be unable to meet any of the critical path dates set forth in the Progress Schedule, including without limitation any Milestone Date, Owner may direct Contractor to accelerate its work, at Contractor's own cost, without any adjustment to the Contract Sum. Such acceleration may include employing such additional forces or paying such additional overtime wages as may be required to place the progress of the Work in conformity with the Progress Schedule and to assure timely substantial completion of the Work and achievement of all Milestone Dates.**

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~~the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, § 3.10.7~~ **In addition, if the progress of the Work is behind the Progress Schedule to such an extent that Owner reasonably determines that Contractor will be unable to meet any of the critical path dates set forth in the Progress Schedule, including without limitation any Milestone Date, or Contractor fails to take prompt and adequate corrective action to Owner's satisfaction to bring the progress of the Work in compliance with the Progress Schedule, Owner may, in addition to any other right or remedy provided herein, proceed as provided in Sections 2.3, 2.4., or 2.5.**

...

§ 3.10.8 Whenever significant changes to the Project occur, such as added or deleted activities, they must be reflected on a revised Progress Schedule to be submitted Owner for its review and approval.

...

~~Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.~~ § 3.10.9 Contractor shall be responsible on a daily basis to maintain all information which affects the length of specific activities on the Progress Schedule, times when Contractor will perform specific jobs, and other data relevant to the Progress Schedule as required by the Architect or Owner. Contractor shall make available at any time such information for review by the Architect or Owner.

...

~~§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.~~ § 3.10.10 Contractor shall prepare and keep current, for Architect's review, a schedule of submittals which is coordinated with Contractor's Progress Schedule, and allow the Architect reasonable time to review submittals.

...

The Contractor shall ~~make available, maintain~~ at the Project site, the Contract Documents, including the Drawings, Specifications, Addenda, 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~~ and 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.

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§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect. Should the Contractor Subcontractors or Sub-subcontractors install, construct, erect or perform any portion of the Work without approval of any requisite submittal, the Contractor shall bear the costs, responsibility, and delay for removal, replacement, and/or correction of any and all items, material, and/or labor.

...

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

...

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the ~~adequacy and accuracy~~ adequacy, accuracy and completeness of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor ~~the~~

all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

...

**§ 3.13.1** 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.

...

**§3.13.2** The Contractor shall ensure that the Work is at all times performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent to the site of the Work shall be free from all debris, building materials and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Contract Document, Contractor shall not interfere with the occupancy or beneficial use of (1) any areas and buildings adjacent to the site of the Work or (2) the Work in the event of partial occupancy. Contractor shall assume full responsibility for any damage to the property comprising the Work or to the owner or occupant of any adjacent land or areas resulting from the performance of the Work.

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**§3.13.3** Operating systems, utilities and services, serving the existing building and project site shall be maintained in operation to serve the needs of the building and site not involved in the Work under this Contract at all times during the progress of the Work under the Contract, except for such short periods as are absolutely necessary to perform the Work. Such operating systems, utilities and services include, but are not limited to, water, electric power, natural gas, heating, ventilating, air conditioning, sanitary sewer, fire alarm, telephone, security, cable television and communications cabling. Prior to interrupting or otherwise affecting any such operating system, utility or service, Contractor shall consult with Owner and Architect to establish a mutually satisfactory schedule for cut over, cut off, disruption or other change in operation of the affected system, utility or service. Owner may require that such cut over, cut off, disruption or change in operation be made to occur after normal working hours or on holidays or weekends. Such agreed upon times and dates shall be clearly indicated in a written memorandum among the parties; and once established and agreed to, schedules of disruption of systems, services and utilities shall be strictly adhered to, unless later changed in writing by mutual agreement of the parties.

...

**§3.13.4** The Contractor shall not permit any workers to use any existing facilities at the site, including, without limitation, lavatories, toilets, entrances, and parking areas other than those designated by Owner. The Contractor, Subcontractors of any tier, suppliers and employees shall comply with instructions or regulations of the Owner governing access to, operation of, and conduct while in or on the premises and shall perform all Work required under the Contract Documents in such a manner as not to unreasonably interrupt or interfere with the conduct of Owner's operations.

...

**§3.13.5** The Contractor shall provide and maintain temporary "all-weather" emergency vehicle access roads as Fire Lanes, as required by the appropriate governmental entity having jurisdiction, until complete construction of all fire lanes. Fire lanes shall be maintained and remain accessible at all times.

...

**§ 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.~~ Contract and shall be responsible for daily clean-up of construction materials and dust control. 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.~~ Project and shall clean all glass surfaces and leave the Work "broom clean", or its equivalent, except as otherwise specified.

...

The Contractor shall provide the Owner and ~~Architect with~~ Architect, and their representatives, access to the Work in preparation and progress ~~wherever located.~~ at all times and wherever located and shall provide proper and safe facilities for such access.

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

...

**§ 3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, ~~Architect, Architect's consultants, Owner's officers and trustees,~~ 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 in whole or in part by any act or omission, whether negligent or otherwise, 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 which~~ 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,~~ damages (subject to the mutual waiver of consequential damages in Section 15.1.6), compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

...

**§ 3.19** The Contractor shall maintain a set of Record Drawings on site in good condition and shall use colored pencils to mark-up said set with "record information" in a legible manner to show: (1) bidding addendums, (2) executed change orders, (3) deviations from the Drawings made during construction; (4) details in the Work not previously shown; (5) changes to existing conditions or existing conditions found to differ from those shown on any existing drawings; (6) the actual installed position of equipment, piping, conduits, light switches, electric fixtures, circuiting, ducts, dampers, access panels, control valves, drains, openings, and stub-outs; and (7) such other information as either Owner or Architect may reasonably request. The prints for Record Drawing use will be a set of "blue line" prints provided by Architect to Contractor at the start of construction. Upon Substantial Completion of the Work, Contractor shall deliver all Record Drawings to Owner and Architect for approval. If not approved, Contractor shall make the revisions requested by Architect or Owner. Final payment and any retainage shall not be

due and owing to Contractor until the final Record Drawings marked by Contractor as required above are delivered to Owner.

...

§ 3.20 The Contractor shall submit four (4) volumes of operating instructions and service manuals to the Architect at the time of Substantial Completion, or as soon thereafter as practicable. Submission of all of the following shall be a condition precedent to Final Payment to the Contractor. The operating instructions and service manuals shall contain:

...

.1 Start-up and Shutdown Procedures: Provide a step-by-step write up of all major equipment. When manufacturer's printed start-up, trouble shooting and shut-down procedures are available, they may be incorporated into the operating manual for reference.

...

.2 Operating Instructions: Written operating instructions shall be included for the efficient and safe operation of all equipment.

...

.3 Equipment List: List of all major equipment as installed shall include model number, capacities, flow rate, and name-plate data.

...

.4 Service Instructions: The Contractor shall be required to provide the following information for all pieces of equipment.

...

(a) Recommended spare parts including catalog number and name of local suppliers or factory representative.

...

(b) Belt sizes, types, and lengths.

...

(c) Wiring diagrams.

...

.5 Manufacturer's Certificate of Warranty:

...

Manufacturer's Certificate of Warranty shall be obtained for all major equipment. Warranty shall be obtained for at least one year from the date of Substantial Completion. Where longer period is required by the Contract Documents, the longer period shall govern.

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.6 Parts catalogs: For each piece of equipment furnished, a parts catalog or similar document shall be provided which identifies the components by number for replacement ordering.

...

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

...

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

...

**§ 4.2.6** 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, 13.5.2 and 13.5.3,~~ 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.

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

...

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

...

**§ 4.2.10** 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~~ such Project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

...

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

...

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

...

§ 4.2.13 ~~The Architect's decisions on matters relating to aesthetic effect will be final if Owner shall have final authority on questions relating to aesthetic effect, provided such authority is exercised in a way which is consistent with the intent expressed in the Contract Documents.~~ Documents, and any such determination shall be communicated through the Architect.

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§ 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~~ furnish in writing to the Owner through the Architect the names of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. ~~Within 14 days of receipt of the information, the Architect may notify the Contractor. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Architect to provide notice~~ Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

...

§5.2.5 Upon request, the Contractor shall provide to the Owner an executed copy of all subcontracts, purchase orders, and other agreements relating to the Work.

...

§5.2.6 The Contractor shall not sublet the Work as a whole. The approval of subcontractors in no way relieves the Contractor from full responsibility.

...

- .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~~ Contractor in writing; and

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§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity,

the Owner shall ~~nevertheless remain legally responsible for all of the successor contractor's~~ be relieved of any legal responsibility under the subcontract if the successor contractor assumes Owner's obligations under the subcontract.

...

#### **§5.5 OWNER PAYMENTS TO SUBCONTRACTORS**

...

**§5.5.1** In the event of any default hereunder by the Contractor, or in the event the Owner or Architect fails to approve any Application for Payment that is not the fault of a Subcontractor, the Owner may make direct payment to the Subcontractor, less appropriate retainage. In that event, the amount paid the Subcontractor shall be deducted from the payment to the Contractor.

...

**§5.5.2** Nothing contained herein shall create any obligation on the part of the Owner to make any payments to any Subcontractor, and no payment by the Owner to any Subcontractor shall create any obligation to make any further payments to any Subcontractor.

#### **PAGE 30**

**§ 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-report to~~ the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for such proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

...

**§ 7.2.2** Acceptance of a disbursement from any allowance fund, contingency fund or acceptance of a Change Order by the Contractor shall constitute full accord and satisfaction for any and all claims, whether direct or indirect, including, but not limited to, impact, delay or acceleration damages, arising from the subject matter of the disbursement or Change Order.

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**.4** As provided in Section ~~7.3.4~~7.3.7.

...

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

...

**§ 7.3.5** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in

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

...

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

...

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. amount as determined by Owner. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4-7.3.7 shall be limited to the following:

...

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect, and workers' compensation insurance;

...

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

...

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

...

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

...

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

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## § 7.5 AGREED OVERHEAD AND PROFIT RATES

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...

§ 7.5.1 For any adjustments to the Contract Sum based on other than the unit price method, overhead and profit combined shall be calculated at the following percentages of the cost attributable to the change in the Work:

...

.1 For the Contractor for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

...

.2 For the Contractor, for Work performed by the Contractor's Subcontractors, five percent (5%) of the amount due the Subcontractor;

...

.3 For each Subcontractor or Sub-subcontractor involved, for Work performed by that Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

...

.4 For each Subcontractor, for Work performed by the Subcontractor's Sub-subcontractors, five percent (5%) of the amount due the Sub-subcontractor;

...

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Sub-subparagraphs 7.3.7.1 through 7.3.7.5;

...

.6 When both additions and credits are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any;

...

.7 To facilitate checking of quotations for extras or credits, all proposals shall be accompanied by a complete itemization of costs including labor, material, and subcontracts. When major cost items are Subcontracts, they shall be itemized also.

...

8. For the Construction Manager when there are adjustments to the Contract sum that increase the GMP total, the Construction Manager's fee shall be at the percentage established in the contract and the combined total of the Construction Manager's fee plus the subcontractors overhead and profit should not exceed 15%.

...

**§ 8.1.4** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined. Claims for extension of time shall be stated in whole or half calendar days.

§ 8.1.5 The Contractor shall be substantially complete with all work shown on or before the date specified for substantial completion in the Contract Documents. Extensions to the Completion Date due to weather delays will be granted only in accordance with Section 8.3.5 below.

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§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. The Contractor shall be substantially complete with all work shown on or before the date specified for substantial completion in the Contract Documents. Extensions to the Completion Date will be granted only in accordance with Section 8.3.5 below.

...

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) ~~an a wrongful act or neglect of the Owner or Architect, or of an employee of either, or of a Separate Contractor;~~ (2) ~~separate contractor employed by the Owner;~~ or by changes ordered in the Work; (3) ~~or~~ by labor disputes, fire, unusual delay in deliveries, unavoidable ~~casualties, adverse weather conditions documented in accordance with Section 15.1.6.2,~~ casualties 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, Architect and Owner determines may justify delay,~~ then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Extensions of time shall be granted only because of delay preventing the execution of the major items of work critical to the schedule for completion of the Work. Contractor shall not be entitled to receive an extension of time equal to the delay unless a written claim is made within seven (7) days after the occurrence of the event giving rise to the delay. Under no circumstances shall the Owner be liable to pay the Contractor any compensation for delays described in this Section.

...

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

...

§ 8.3.4 In the event that the Owner has specified a stipulated completion date, the provisions of 8.3.1 through 8.3.3 do not apply. However, in the event of delay(s) fully beyond the Contractor's control, the Owner may authorize by change order reimbursement for additional costs to accelerate the construction in order to maintain the stipulated completion date.

...

§ 8.3.5 The Contractor shall anticipate and include in the construction schedule lost time due to adverse weather conditions in accordance with the number of Lost Time Workdays per month in the Dallas/Fort Worth area in accordance with the following schedule:

...

January - 7

...

February - 7

...

March - 7

...

April - 8

...

May - 9

...

June - 7

...

July - 5

...

August - 5

...

September - 6

...

October - 6

...

November - 6

...

December - 6

...

A request for a time extension based on unusually adverse weather conditions will not be granted unless the cumulative actual days of Lost Time Workdays for the period when the critical path of the Project is subject to impact from Lost Time Workdays exceeds the cumulative number of expected Lost Time Workdays for period of the construction duration using the assigned days per month in this Section. The final calculation of entitlement to a time extension cannot be made until the Project is completed and the time extensions for unusually adverse weather may not be made until that time. However, Contractor will submit claimed Lost Time Workdays in accordance with the submission time provided in 8.3.1. No day on which substantial Contractor forces on the Project are unable to perform work for more than fifty percent (50%) of the usual workday will be counted as a Lost Time Workday. Lost Time Workdays will not be calculated for any period when the critical path of the Project is not subject to impact from adverse weather conditions. Extensions of Contract Time shall be the sole remedy for delays due to weather conditions; compensation shall not be available.

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**§ 9.1.1** The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total maximum amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. The Contract Sum may only be increased pursuant to a Change Order signed by the Owner. Completion of the Work is a condition precedent to Owner's obligation to pay the full Contract Sum.

...

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. Before any work is done on the site and before the first Application for Payment, the Contractor shall submit to the Architect a schedule or breakdown showing the respective amounts (called "values" for convenience) properly allocable 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 Work and aggregating the total contract sum. Each respective amount or value shall include its part of overhead and profit so that the sum of the items will total the contract sum. Such schedule of values will be prepared so as to facilitate payments by the Contractor to his Subcontractors and shall follow the trade divisions of the specifications so far as practicable. Such schedule and the amount therein shall be in such detail 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. Such schedule, when approved by the Architect, unless it be found to be in error, shall be used only as a basis for the Contractor's Applications for Payment and shall not be taken as evidence of market or other value.

...

**§ 9.3.1** At least ~~ten~~ fifteen (15) 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 Such application shall be notarized, if required, and supported by all such data substantiating the Contractor's right to payment that as the Owner or Architect may require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G702, Application and Certification for Payment, supported by AIA Document G703, Continuation Sheet, submitted in quadruplicate.

...

**§9.3.1.3** Until Substantial Completion, the Owner shall pay 95 percent of the amount due the Contractor on account of progress payments.

...

**§9.3.1.4** Contractor is to submit to Architect within 15 days of execution of Owner/Contractor Agreement proposed sample of Lien Waiver and Bills Paid affidavit forms for review and acceptance for this Contract.

...

**§9.3.1.5** Monthly Applications for Payment shall include waivers of liens for all work included in the previous months' application for payment. Waiver of Liens for the subcontractors and materialmen shall be the total amount paid prior to the previous months' application for payment.

...

**§9.3.1.6** With each Application for Payment, Contractor shall certify that such Application for Payment represents a

just estimate of cost reimbursable to the Contractor under the terms of the Contract Documents and shall also certify that there are not any Mechanics' or Materialmen's Liens outstanding at the date of this Application for Payment, that all due and payable bills with respect to the Work have been paid to date or shall be paid from the proceeds of that Application for Payment, and that there is no known basis for the filing of any Mechanics' or Materialmen's Liens against the Surety in connection with the Work, and that waivers and bills paid affidavit forms from all subcontractors and materialmen have been or will be obtained in such form as the Owner may require.

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**§ 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,~~ shall be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities ~~that making a claim by reason of having~~ provided labor, materials, and equipment relating to the Work.

...

**§9.4.3** Contractor shall include as a separate and distinct line item on his pay request a value for trenching and shoring operations. Contractor shall attach to pay request a notarized letter from shoring engineer that designed Contractor's trenching and shoring systems, addressed to Owner, attesting that engineer has (1) reviewed trenching and shoring systems installed in field and found them in conformance with shoring engineer's detailed plans and specifications, (2) line item on Contractor's pay request accurately represents work installed and/or materials on site, and (3) engineer recommends payment to Contractor of line item for trenching and shoring based on engineer's observations.

...

**§9.4.4** Contractor's monthly Application for Payment that is submitted without required letter from Contractor's shoring engineer described by Subparagraph 9.4.3 is subject to return without review until letter is submitted.

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**.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; ~~Documents;~~ or

...

**.8** failure to submit a written plan indicating action by Contractor to regain time schedule for completion of Work within the Contract

...

**Time.**

...

~~§ 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. Intentionally deleted.~~

...

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

...

§ 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, Subcontractor,~~ except as may otherwise be required by law.

...

§ 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.~~ any Work.

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

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when ~~the Work or designated portion thereof construction~~ is sufficiently complete in accordance with the Contract Documents so that the Owner ~~can occupy or utilize the Work for its intended use.~~ may occupy and utilize the Work as a whole for the use for which it is intended.

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§ 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~~ In the event of partial use and occupancy by Owner, the Work, or any portion thereof, shall not be deemed substantially complete until the entire Work is substantially complete; and such partial use and occupancy shall not commence any warranty period under the Contract Documents.

...

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

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect and Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in full 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~~ satisfactory to the Owner that the insurance will 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~~ Owner; (7) certification by the Contractor that (i) all Work has been completed in accordance with the Contract Documents, (ii) the final Application for Payment includes all claims of the Contractor against the Owner arising in connection with the Project and constitutes a waiver and release of any and all claims not presented in that application except for claims arising out of third party actions, cross-claims and counterclaims, and (iii) the Record Drawings maintained by the Contractor pursuant to the Contract Documents and delivered to the Owner or Architect are complete and accurate in all respects; and (8) evidence of compliance with all requirements of the Contract Documents, such as notices, certificates, affidavits, or other requirements to complete obligations under the Contract Documents, including but not limited to (i) instruction of the Owner's representatives in the operation of mechanical, electrical, plumbing, and other systems; (ii) delivery of keys to the Owner with keying schedule (master, submaster, and special keys); (iii) delivery to the Owner of the Contractor's warranties as set forth in the Contract Documents and each written warranty and assignment thereof prepared in duplicate, certificates of inspections, and bonds for the Architect's review and delivery to the Owner; (iv) delivery to the Owner of printed or typewritten operating, servicing, maintenance and cleaning instructions for all Work (parts lists and special tools for mechanical and electrical work) in approved form; (v) delivery to the Owner of the Record Drawings; (vi) delivery to the Owner of a Final Waiver and Release of Liens covering all Work for itself and for each Subcontractor, vendor, and material supplier who furnished labor, materials, and services to the Work, executed by an authorized officer and duly notarized; (vii) delivery to the Owner of final waivers of lien from each subcontractor and material supplier who furnished labor, materials, and services to the Work, executed by their respective officers and duly notarized; and (viii) delivery of sales and use tax certificate number of the Contractor. In addition to the foregoing, all other submissions required by other Articles and Paragraphs of the Specifications and other Contract Documents shall be submitted to the Owner before approval of final payment. If a Subcontractor refuses to furnish a release or waiver required by the Owner and Owner's lender (if any), the Contractor must furnish a bond satisfactory to the Owner and Owner's lender (if any) to indemnify the Owner and Owner's lender (if any) against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and attorneys' fees. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor ~~may~~ must 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.

...

**§9.10.2.1** In addition to items listed in 9.10.2 to be submitted before Final Payment will be made or remaining retainage released, Contractor shall deliver a permanent certificate of occupancy from local inspection authorities.

...

**§ 9.10.4** The making of final payment shall not constitute a waiver of any Claims by the ~~Owner~~ except those arising from

...

~~.1—liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled; Owner.~~

...

~~.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.~~

...

**§ 9.10.6 In addition to any other damages, failure of the Contractor to achieve final completion within sixty (60) days after the specified date of Substantial Completion, subject to authorized extensions, will result in the Contractor's being responsible for excess Architect's fees. Excess Architect's fees include the cost incurred after sixty (60) days beyond the date of Substantial Completion. Excess Architect's fees will be deducted from the amount due the Contractor.**

...

A. The Contractor shall deliver to the Owner his written guarantee, made out to the Owner and in form satisfactory to the Owner, guaranteeing all of the work under the contract to be free from faulty materials in every particular, and free from improper workmanship, and against injury from proper and usual wear; and agreeing to replace or re-execute without cost to the Owner such work as may be found to be improper or imperfect, and to make good all damage caused to other work or materials, due to such required replacement or re-execution. This guarantee shall be made to cover a period of twelve (12) months from the date of substantial completion as certified by the Architect under this Contract. This guarantee must be furnished to the Owner and approved by him before acceptance and final payment is made.

...

B. Contractor shall provide Owner with copies of all guarantees or warranties which have been made to the Contractor by suppliers or subcontractors as required hereunder, together with an assignment of such warranties and guarantees to the Owner; however, such assignment shall not relieve the Contractor of the responsibility stated in subparagraph (A) above in case of failure of subcontractors or supplies to fulfill the provision of such warranties or guarantees.

...

C. Neither the Final Certificate, nor payment, nor any provision in the Contract Documents shall relieve the Contractor of responsibility for neglect or faulty materials or workmanship during the period covered by the guarantee.

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**§10.2.2.1 If the Contractor fails to give such notices or fails to comply with such laws, ordinances, rules, regulations, and lawful orders, it shall be liable for and shall indemnify and hold harmless the Owner and the**

Architect and their respective employees, officers, and agents, against any resulting fines, penalties, judgments, or damages, including reasonable attorneys' fees, imposed on or incurred by the parties indemnified hereunder.

...

**§ 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~~ 10.2.1.3 except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

...

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~~ written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

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**§10.2.9** The Contractor shall protect and be responsible for any damage to his work or material, from the date of the agreement until the acceptance of the work and shall make good without cost to the Owner, any damage or loss that may occur during this period, except that in the event of partial or total occupancy by the Owner prior to final acceptance, the Owner shall be responsible for any damage caused by such partial or total occupancy. The Contractor shall handle all materials directed, so that it may be inspected by the Architect. All material affected by the weather shall be covered and protected to keep it free from damage while being transported to the site, as well as when it is stored on the site.

...

**§10.2.10** The Contractor shall have full responsibility for preventing overstress of any structure or any part of member of it during construction. The Contractor shall fully check the effect of his operations in this regard, and shall provide all temporary support and connections required.

...

**§10.2.11** The Contractor at his own expense and option shall employ watchmen or erect adequate fencing at such time as necessary to protect or attend his work, including times when building exterior is breached to protect it and its contents.

...

**§ 10.2.12** The Contractor shall not cause or permit any "Hazardous Materials" (as defined herein) to be brought upon, kept, or used in or about the Project site except to the extent such Hazardous Materials: (i) are necessary for the prosecution of the Work; (ii) are required pursuant to the Contract Documents; and (iii) have been approved in writing by Owner. Any Hazardous Materials allowed to be used on the Project site shall be used, stored, and disposed of in compliance with all applicable laws relating to such Hazardous Materials. Any unused or surplus Hazardous Materials, as well as any other Hazardous Materials that have been placed, released, or

discharged on the Project site by the Contractor or any of its employees, agents, suppliers, or Subcontractors, shall be removed from the Project site at the earlier of: (i) the completion of the Work requiring the use of such Hazardous Materials; (ii) the completion of the Work as a whole; or use of such Hazardous Materials; (ii) the completion of the Work as a whole; or (iii) within twenty-four (24) hours following the Owner's demand for such removal. Such removal shall be undertaken by the Contractor at its sole cost and expense and shall be performed in accordance with all applicable laws. Any damage to the Work, the Project site, or any adjacent property resulting from the improper use of or any discharge or release of Hazardous Materials shall be remedied by the Contractor at its sole cost and expense and in compliance with all applicable laws. The Contractor shall immediately notify the Owner of any release or discharge of any Hazardous Materials on the Project site. The Contractor shall provide the Owner with copies of all warning labels on products which the Contractor or any of its Subcontractors will be using in connection with the Work, and the Contractor shall be responsible for making any and all disclosures required under applicable "Community Right-to-Know" or similar laws. The Contractor shall not clean or service any tools, equipment, vehicles, materials, or other items in such a manner as to cause a violation of any laws or regulations relating to Hazardous Materials. All residue and waste materials resulting from any such cleaning or servicing shall be collected and removed from the Project site in accordance with all applicable laws and regulations. The Contractor shall immediately notify the Owner of any citations, orders, or warnings issued to or received by the Contractor, or of which the Contractor otherwise becomes aware, which relate to any Hazardous Materials on the Project site. Without limiting any other indemnification provisions pursuant to law or specified in this Agreement, the Contractor shall indemnify, defend (at the Contractor's sole cost, and with legal counsel approved by Owner), and hold the Owner and Architect harmless from and against any and all claims, demands, losses, damages, disbursements, liabilities, obligations, fines, penalties, costs, and expenses for removing or remedying the effect of any Hazardous Materials on, under, from, or about the Project site, arising out of or relating to, directly or indirectly, the Contractor's failure to comply with any of the requirements herein. As used herein, the term "Hazardous Materials" means any hazardous or toxic substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table, or listed by the Environmental Protection Agency as hazardous substances, and any substances, materials, or wastes that are or become regulated under federal, state, or local law.

...

**§ 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~~ condition in writing.

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

...

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

...

~~§ 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.~~Intentionally deleted.

...

~~§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.~~located as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, including private entities performing Work at the site and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project:

...

.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 or persons or entities excluded by statute from the requirements of Clause 11.1.1 but required by the Contract Documents to be covered by the insurance required by that Clause;

...

.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

...

.4 Claims for damages insured by usual personal injury liability coverage;

...

.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

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.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 The 3.18.

...

The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

~~§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.~~ 11.1.2.1 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

...

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

...

~~the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage. The Construction Manager agrees to waive all rights of subrogation against the Owner, its trustees, officers, officials, employees, volunteers, and agents for losses arising from work performed by or on behalf of the Construction Manager. Waivers of subrogation in favor of the Owner shall be endorsed on all General Liability, Auto Liability, and Workers' Compensation policies.~~

...

#### **§ 11.2 Owner's Insurance**

...

~~§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements,~~ Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:

...

~~and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents.~~ 1. Premises Operations (including X, C and U coverage as applicable). (No exclusion for explosion, collapse or underground operations).

...

2. Independent Contractor's Protective

...

3. Products and Completed Operations.

...

4. Personal Injury Liability.

...

5. Contractual, including specified provision for Contractor's obligation under Paragraph 3.18.

...

6. Owned, non-owned and hired motor vehicles."

...

~~The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.~~ §11.1.2.2 The insurance required by Subparagraph 11.1.1 shall be written by an insurance company having an A rating or better by A.M. Best and shall be written in limits for not less than the minimum required by law or the following:

...

1. Worker's Compensation:

...

(a) State: Statutory

...

(b) Applicable Federal: Statutory

...

(c) Employer's Liability: \$500,000 per Accident

...

\$500,000 Disease, Policy Limit

...

\$500,000 Disease, Each Employee

...

2. Comprehensive or Commercial General Liability (including Premises-Operations; Independent Contractors' Protective; Products and Completed Operations):

...

(a) Each Occurrence: \$1,000,000

...

Aggregate: \$2,000,000

...

(b) Products and Completed Operations to be maintained for two years after final payment: \$2,000,000 Aggregate

...

~~§ 11.2.2 Failure to Purchase Required Property Insurance.~~ If the Owner fails to purchase and maintain the required property insurance, with all of the coverages (c) Coverage to be extended to include the interests of the Architect and his consultants.

...

(d) No total pollution exclusion should be included.

...

~~and in 3.~~ Business Auto \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage.

...

4. Umbrella Excess Liability:

...

(a) Over Primary Insurance: \$1,000,000 Each Occurrence

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5. Occurrence Policy: \$1,000,000 Each Occurrence

...

(applicable for asbestos related projects only)

...

the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement. If the General Liability coverage is provided by a Commercial General Liability Policy on a claims-made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of

coverage required to be maintained after final payment, certified in accordance with Subparagraph 9.10.2.

...

~~of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain~~ §11.1.2.3 Each policy of insurance listed above shall be purchased and maintained by the Contractor and each certificate of insurance for said insurance shall contain a complete waiver of subrogation against Owner, Architect and Architect's Engineers. Each certificate shall also list Owner, the Contractor of the Owner, Architect and Architect's Engineers as a party insured.

...

~~insurance that will protect the interests~~ §11.1.2.4 Contractor shall not commence work at the site under this Contract until he has obtained all required insurance and submitted appropriate certifications.

...

~~of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.~~ § 11.1.3 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. 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. If this insurance is written on the Comprehensive General Liability policy form, the Certificates shall be AIA Document G705, Certificate of Insurance. If this insurance is written on a Commercial General Liability policy form, ACORD form 25S will be acceptable.

...

**§ 11.1.4 Notice of Cancellation or Expiration of Owner's Required Property-Contractor's Required Insurance.**

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

...

**§ 11.2 Owner's Insurance**

...

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

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**§ 11.6 PERFORMANCE BOND AND PAYMENT BOND**

...

**§ 11.6.1 The Contractor shall furnish a Performance Bond and a Payment Bond. The amount of each bond shall be equal to 100 percent of the Contract Sum. Any person or firm executing a bond upon the Contractor's Work under this Contract shall be deemed to have consented in advance to any changes in the Work made by order of Owner as set forth in Article 7; and any such changes made under these provisions shall in no way alter or impair the obligations of the person or firm executing such bond.**

...

**§11.6.1.1 The Contractor shall deliver the required bonds to the Owner not later than three days following the date the Agreement is entered into, or if the Work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to the commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished.**

...

**§11.6.1.2 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney, indicating the monetary limit of such power.**

...

**§11.6.1.3 The Contractor shall provide each bond on the form required by Owner.**

...

**§11.6.1.4 No sureties will be accepted by the Owner who are now in default or delinquent on any bonds or who are interested in any litigation pending against the Owner during the term of this Contract. All bonds shall be executed by a corporate surety authorized to do business in the State of Texas. The surety company or companies furnishing the surety bonds for this Contract must show a Texas Department of Insurance underwriting limitation not less than the total amount of the Contract. Each bond shall be executed by the Contractor and the Owner. Should any surety be determined unsatisfactory at any time by the Owner, notice will be given to the Contractor, and the Contractor shall immediately provide a new surety (complying with Article 11) acceptable to the Owner and at no additional cost to the Owner. This Contract shall not be valid nor will any payments be due or paid until approval of each bond by the Owner.**

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**§ 11.6.2 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.**

...

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

...

**§ 12.2.2.3** 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.~~ be extended from the date corrective Work is performed by the Contractor.

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**§12.2.6** Owner shall have the right to operate equipment until defects are corrected and warranties met, and shall have the right to operate rejected equipment until it is replaced without charge for depreciation, use or wear.

...

The Contract shall be governed by the law of the place where the Project is ~~located, excluding that jurisdiction's choice-located.~~

...

~~of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.~~ **§13.1.2** The Owner has adopted a prevailing wage rate schedule as more fully described in the Project Manual or other Contract Documents. The Contractor and each Subcontractor shall pay to all laborers, workmen and mechanics employed by them in the execution of this Work not less than such rates for each craft or type of workman or mechanic needed to execute the Work. If it becomes necessary to employ any person in a trade or occupation not herein listed, such person shall be paid not less than an hourly rate fairly comparable to the prevailing wage rates adopted by Owner. This determination of prevailing wages shall not be construed to prohibit the payment of more than the rates shown. In compliance with Texas Government Code, Chapter 2258, the Contractor and each subcontractor shall forfeit, as a penalty to the Owner, sixty dollars (\$60.00) for each laborer, workman or mechanic employed by them, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the rates adopted by Owner.

...

### **§ 13.3 Written Notice**

...

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

...

## **§ 13.4 Rights and Remedies**

...

**§ ~~13.3.1~~-13.4.1** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

...

**§ ~~13.3.2~~-13.4.2** No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

...

## **§ 13.4-13.5 Tests and Inspections**

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**§ ~~13.4.1~~-13.5.1** Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for concluded and (2) tests, inspections, or approvals where building codes or applicable laws or regulations so require-prohibit the Owner from delegating their cost to the Contractor.

...

**§ ~~13.4.2~~-13.5.2** If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section ~~13.4.1~~, 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section ~~13.4.3~~, 13.5.3, shall be at the Owner's expense.

...

**§ ~~13.4.3~~ If ~~13.5.3~~** If such procedures for testing, inspection, or approval under Sections ~~13.4.1 and 13.4.2~~ 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

...

**§ ~~13.4.4~~-13.5.4** Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

...

**§ ~~13.4.5~~-13.5.5** If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

...

**§ 13.4.6-13.5.6** Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

...

### **§ 13.5-13.6** Interest

...

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at twelve percent (12%) per annum.

...

### **§ 13.7** Time Limits on Claims

...

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

...

### **§13.8** Equal Opportunity

...

**§13.8.1** The Contractor shall maintain policies of employment as follows:

...

**§13.8.1.1** The Contractor and Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

...

**§13.8.1.2** The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

...

**§13.9 Criminal Background**

...

~~the rate~~ **§13.9.1** No person shall be engaged by the Contractor or any Sub-Contractor to work on Owner property where students are present who have charges pending, or who have been convicted, received probation or deferred adjudication for the following:

...

- 1. Any offense against a child;**

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- 2. Any sex offense;**

...

- 3. Any crimes against persons involving weapons or violence;**

...

- 4. Any felony offense involving controlled substances;**

...

- 5. Any felony offense against property; or**

...

- 6. Any other offense that the Owner believes might compromise the safety of students, staff or property.**

...

It shall be the responsibility of the Contractor and Sub-Contractor to ensure compliance with this provision.

...

the parties agree upon in writing or, Contractor will obtain all required national Criminal History Record Information ("CHRI"), pursuant to Texas Education Code section 22.0834 and Texas Government Code 411.0845, on all employees, subcontractors of every tier ("Subcontractor"), Subcontractor's employees, independent contractors, applicants, agents, or consultants, if (1) the person will have continuing duties related to the Project and (2) the duties are or will be performed on Owner's property and the person(s) will or may have direct contact with students ("Covered Employee"). Contractor shall assume all expenses for obtaining CHRI. Any Covered Employee shall be disqualified and prohibited from performing any contract duties or services if that Covered Employee has been convicted of one of the following offenses, if at the time of the offence the victim was under eighteen (18) or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense to (a) or (b) under federal law or the laws of another state ("Disqualifying Criminal History").

The Contractor shall certify to the Owner in writing that it has complied with this section and that none of its Covered Employees have a Disqualifying Criminal History on a form provided by the Owner. Contractor agrees that if it receives information that a Covered Employee is arrested or convicted for any of the Disqualifying Criminal History offenses during the performance of this contract, Contractor will immediately remove the Covered

Employee from Owner's property or other location where students are regularly present, and notify the Owner of said removal within three (3) days of doing so. Contractor understands that any failure to comply with the requirements of this section may be grounds for termination of the contract. Instructions for complying with CHRI requirements are available from the Owner.

...

§13.9.2 Any person associated with, engaged and/or representing on site or doing business with the Owner shall submit such background information as may be requested by the Owner in the absence thereof, order to enable the Owner to perform criminal background evaluations/investigations for the following individuals:

...

1. General Contractor - Project Manager, Superintendent, Field Engineers and Foreman.

...

2. Subcontractors - Project Manager, Superintendent, Foreman.

...

3. Trades - Management personnel on site.

...

A copy of Criminal History Check form shall be available for review by the employer and affected party at the Owner's Administrative Office during normal business hours.

...

### §13.10 Working Time and Working Restrictions

...

§13.10.1 THE ENTIRE BUILDING SHALL REMAIN TOBACCO-FREE AT ALL TIMES.

...

§13.10.2 Normal working hours and normal working days for Contractor's work on this Project shall be between 7:00 a.m. and 8:00 p.m., Monday through Friday, except as otherwise noted below. The Owner may require that certain limited portions of the Work be accomplished after normal working hours or other than on normal working days.

...

§13.10.3 Should Contractor desire to carry out portions of the Work at times other than between the hours and days stipulated above, he shall submit written request to do so to the Owner together with specific calendar days and hours he wishes to work and a description of the activities he proposes to carry out during those times. Construction activities will not be permitted at the legal rate prevailing from times other than those specified or subsequently approved in writing by the Owner. Only those activities specifically approved by Owner will be permitted during hours or on days other than those stipulated above.

...

§13.10.4 No extension of time will be granted and no "extra" or additional amount will be paid due to failure of Owner to approve performing of construction activities during hours other than those stipulated above.

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§13.10.5 Work performed other than between 7:00 a.m. and 8:00 p.m., Monday through Friday, shall be done at no additional cost, whether work at other times is required by Owner or requested by Contractor and approved by Owner.

...

§13.10.6 If necessary in order to complete Work within time fixed in Contract or any extension thereof, Contractor shall request approval from Owner to perform work before 7:00 a.m. or after 8:00 p.m. or on weekends or holidays, and if Owner approves, shall perform work during such additional times and on such additional days as have been approved, at the place where no additional cost to Owner. Work during such additional times and on such additional days shall continue only so long as is necessary to return work to on schedule or to complete the Work within the Contract Date.

...

~~the Project is located.~~ §13.10.7 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Agreement and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

...

§ 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, Contractor or a Subcontractor, Sub-subcontractor or their agents or employees, or any other persons or entities performing portions of the Work, Work under direct or indirect contract with the Contractor, for any of the following reasons:

...

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

...

.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 approved by the Architect within thirty (30) days after receipt of written notification from Contractor that the time for payment stated in the Contract Documents; or

...

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2. Documents has expired.

...

~~§ 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.~~Intentionally deleted.

...

~~§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' fourteen (14) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work properly executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.~~executed.

...

~~§ 14.1.4 If~~Intentionally deleted.

...

~~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 §14.1.5 Any payment due to, or recovered by, Contractor under paragraph 14.1.3 above shall not exceed the remainder, if any, after subtracting the total of the previous payments made by Owner to Contractor from the lesser of:~~

...

~~the Contract Documents with respect to matters important to the progress of the Work, (a) the fair value (not Contractor's cost or profit) of the properly executed Work; or~~

...

~~the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3, (b) an amount determined by multiplying the contract price, as adjusted by change orders, times the percentage of Work completed.~~

...

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

...

~~.5 Contractor becomes insolvent or makes a general assignment for the benefit of its creditors.~~

...

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

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- 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.~~

...

§ 14.2.4.1 The costs of finishing the Work include, without limitation, all direct costs incurred by the Owner by reason of the termination of the Contractor as stated herein, including without limitation, attorney and other professional fees, insurance premiums and interest costs.

...

**§ 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~~ may include profit. No adjustment shall be made to the extent

...

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

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**§ 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~~ 10 days after occurrence of the event giving rise to such Claim or within ~~21~~ 10 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.~~

...

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

...

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 Sum or for extra costs or damages, he shall give the Architect and the Owner written notice thereof within ten days after the event giving rise to such claim. This notice shall be given by the Contractor 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 Claim except in an emergency endangering life or property arising under Section 10.4. in which case the Contractor shall proceed in accordance with paragraph 10.4. Such claim, with the recommendation of the Architect, will be submitted to the Owner and its action shall be final and binding. Failure to give such notice shall be a waiver of the claim and such claim or possible claim shall be invalid and unenforceable unless so made. Compliance by the Contractor with this paragraph does not validate any claim which is otherwise invalid.

...

**§ 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. the Contractor shall provide written notice as required by Sections 8.3.1 and 8.3.5.

...

**§ 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. in accordance with Section 8.3.5.

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**§ 15.2 Initial Decision - Intentionally Deleted**

...

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

...

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

...

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

...

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

...

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

...

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

...

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

...

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

...

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

...

~~§ 15.3.1 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; the institution of legal or equitable proceedings by either party.~~

...

~~§ 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, which shall be in accordance with the provisions of Section 154.023, Texas Civil Practice and Remedies Code. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings filed in writing with the other party to this Contract.~~

...

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

...

**§ 15.4 Arbitration – Intentionally Deleted**

...

~~§ 15.4.1 If~~

...

**ARTICLE 16: ADDITIONAL PROVISIONS FOR LIQUIDATED DAMAGES**

...

**§16.1 Contractual Provisions**

...

~~the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, §16.1.1 It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the Contract of the Work to be done hereunder are essential conditions of this Contract.~~

...

~~shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration §16.1.2 Contractor agrees that said work shall be prosecuted in accordance with the provisions of this Contract at such a rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and Owner, that the time for the completion of the Work described herein is a reasonable time for completion of the same.~~

...

~~shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. §16.1.3 If the said Contractor shall neglect, fail or refuse to complete the Work within the time indicated above or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this Contract, to pay to~~

...

~~§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim. the Owner the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of Contract, as hereinafter set forth for **\$2,000.00, for each and every calendar day** that the Contractor shall be in default after the time stipulated in the Contract for completing the Work. Such damages shall be cumulative and not in lieu of any other rights or remedies of Owner against Contractor as a result of any breach by Contractor hereunder.~~

...

~~§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~ **16.1.4 The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain.**

...

~~§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in §16.1.5 It is further agreed that time is of the essence of each and every portion of this Contract and of the Specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever, and where under the Contract an additional time is allowed for the completion of any work, the new time fixed by such an extension shall be of the essence of this Contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess costs when the delay in completion of the Work is due:~~

...

~~any court having jurisdiction thereof.~~ **1 To any**

...

~~§ 15.4.4 Consolidation or Joinder performance, priority or allocated order duly issued by the Government;~~

PAGE 54

~~§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~ **2 To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not limited to, acts of God, or of the public enemy, acts of the Owner, acts of another contractor in performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather;**

...

~~§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~ **3 To any delays of subcontractors or suppliers occasioned by any of the causes specified in subparagraphs of this Article.**

...

~~§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~ §16.1.6 Provided, further, that the Contractor shall, within 10 days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the Contract, notify the Owner in writing of the cause of the delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

# **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Christopher C. Zillmer/mls, 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 13:41:51 CT on 04/20/2023 under Order No. 2114312451 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.

*Christopher C. Zillmer/mls*  

---

*(Signed)*

---

*(Title)*

*04/20/2023*  

---

*(Dated)*

DOCUMENT 00 73 46

PREVAILING WAGE RATES

# Reference Attached Davis-Bacon Wage Rates

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"General Decision Number: TX20230243 01/13/2023

Superseded General Decision Number: TX20220243

State: Texas

Construction Type: Building

County: Denton County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

|   |  |
|---|--|
| If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: | <ul style="list-style-type: none"><li>. Executive Order 14026 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li></ul>  |
| If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:         | <ul style="list-style-type: none"><li>. Executive Order 13658 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</li></ul> |

The applicable Executive Order minimum wage rate will be

adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

|                     |                  |
|---------------------|------------------|
| Modification Number | Publication Date |
| 0                   | 01/06/2023       |
| 1                   | 01/13/2023       |

ASBE0021-011 08/01/2017

|  | Rates    | Fringes |
|--|----------|---------|
| ASBESTOS WORKER/HEAT & FROST<br>INSULATOR (Duct, Pipe and<br>Mechanical System Insulation).... | \$ 25.87 | 7.23    |

BOIL0074-003 01/01/2021

|                  | Rates    | Fringes |
|------------------|----------|---------|
| BOILERMAKER..... | \$ 29.47 | 24.10   |

CARP1421-002 10/01/2021

|                 | Rates    | Fringes |
|-----------------|----------|---------|
| MILLWRIGHT..... | \$ 29.58 | 11.27   |

\* ELEV0021-006 01/01/2023

|                        | Rates    | Fringes    |
|------------------------|----------|------------|
| ELEVATOR MECHANIC..... | \$ 47.60 | 37.335+a+b |

FOOTNOTES:

A. 6% under 5 years based on regular hourly rate for all hours worked. 8% over 5 years based on regular hourly rate for all hours worked.

B. New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day, and Veterans Day.

-----  
ENGI0178-005 06/01/2020

|  | Rates    | Fringes |
|--|----------|---------|
| POWER EQUIPMENT OPERATOR   |          |         |
| (1) Tower Crane.....   | \$ 32.85 | 13.10   |
| (2) Cranes with Pile<br>Driving or Caisson<br>Attachment and Hydraulic<br>Crane 60 tons and above..... | \$ 28.75 | 10.60   |
| (3) Hydraulic cranes 59<br>Tons and under.....   | \$ 32.35 | 13.10   |

-----  
IRON0263-005 06/01/2022

|  | Rates    | Fringes |
|--|----------|---------|
| IRONWORKER (ORNAMENTAL AND<br>STRUCTURAL)..... | \$ 27.14 | 7.68    |

-----  
PLUM0100-008 11/01/2021

|   | Rates    | Fringes |
|---|----------|---------|
| HVAC MECHANIC (HVAC Unit<br>Installation Only)..... | \$ 34.48 | 13.07   |

-----  
\* SUTX2014-019 07/21/2014

|  | Rates       | Fringes |
|--|-------------|---------|
| BRICKLAYER.....  | \$ 19.89    | 0.00    |
| CARPENTER, Excludes Drywall<br>Hanging, Form Work, and Metal<br>Stud Installation..... | \$ 19.25    | 0.00    |
| CAULKER.....   | \$ 16.63    | 0.00    |
| CEMENT MASON/CONCRETE FINISHER...<br>..  | \$ 12.93 ** | 0.00    |
| DRYWALL HANGER AND METAL STUD<br>INSTALLER.....  | \$ 15.42 ** | 0.00    |
| ELECTRICIAN (Alarm<br>Installation Only).....  | \$ 18.83    | 3.32    |
| ELECTRICIAN (Communication<br>Technician Only).....                                    | \$ 19.98    | 3.64    |

|   |             |      |
|---|-------------|------|
| ELECTRICIAN (Low Voltage<br>Wiring Only).....   | \$ 15.80 ** | 2.18 |
| ELECTRICIAN, Excludes Low<br>Voltage Wiring and<br>Installation of Alarms/Sound<br>and Communication Systems..... | \$ 18.82    | 0.83 |
| FORM WORKER.....  | \$ 12.13 ** | 0.00 |
| GLAZIER.....  | \$ 16.55    | 3.13 |
| HIGHWAY/PARKING LOT STRIPING:<br>Operator (Striping Machine).....   | \$ 10.04 ** | 2.31 |
| INSTALLER - SIDING<br>(METAL/ALUMINUM/VINYL).....   | \$ 14.74 ** | 0.00 |
| INSTALLER - SIGN.....   | \$ 15.61 ** | 0.00 |
| INSULATOR - BATT.....   | \$ 13.00 ** | 0.00 |
| IRONWORKER, REINFORCING.....  | \$ 14.02 ** | 0.00 |
| LABORER: Common or General.....   | \$ 11.76 ** | 0.00 |
| LABORER: Mason Tender - Brick...  | \$ 10.54 ** | 0.00 |
| LABORER: Mason Tender -<br>Cement/Concrete.....   | \$ 10.75 ** | 0.00 |
| LABORER: Pipelayer.....   | \$ 13.00 ** | 0.35 |
| LABORER: Plaster Tender.....  | \$ 12.22 ** | 0.00 |
| LABORER: Roof Tearoff.....  | \$ 11.28 ** | 0.00 |
| LABORER: Landscape and<br>Irrigation.....   | \$ 12.50 ** | 0.48 |
| LATHER.....   | \$ 16.00 ** | 0.00 |
| OPERATOR:<br>Backhoe/Excavator/Trackhoe.....  | \$ 12.83 ** | 0.00 |
| OPERATOR: Bobcat/Skid<br>Steer/Skid Loader.....   | \$ 13.93 ** | 0.00 |
| OPERATOR: Bulldozer.....  | \$ 18.29    | 1.31 |

|   |             |      |
|---|-------------|------|
| OPERATOR: Drill.....  | \$ 15.69 ** | 0.50 |
| OPERATOR: Forklift.....   | \$ 13.21 ** | 0.81 |
| OPERATOR: Grader/Blade.....   | \$ 12.48 ** | 0.00 |
| OPERATOR: Loader.....   | \$ 13.46 ** | 0.85 |
| OPERATOR: Mechanic.....   | \$ 17.52    | 3.33 |
| OPERATOR: Paver (Asphalt,<br>Aggregate, and Concrete).....                      | \$ 18.44    | 0.00 |
| OPERATOR: Roller.....   | \$ 15.04 ** | 0.00 |
| PAINTER (Brush, Roller and<br>Spray), Excludes Drywall<br>Finishing/Taping..... | \$ 13.21 ** | 2.33 |
| PAINTER: Drywall<br>Finishing/Taping Only.....                                  | \$ 13.76 ** | 2.84 |
| PIPEFITTER, Excludes HVAC<br>Pipe Installation.....                             | \$ 22.98    | 6.35 |
| PLASTERER.....  | \$ 15.75 ** | 0.00 |
| PLUMBER (HVAC Pipe<br>Installation Only).....                                   | \$ 22.16    | 5.46 |
| PLUMBER, Excludes HVAC Pipe<br>Installation.....                                | \$ 20.84    | 4.74 |
| ROOFER.....   | \$ 17.19    | 0.00 |
| SHEET METAL WORKER (HVAC Duct<br>Installation Only).....                        | \$ 20.88    | 5.19 |
| SHEET METAL WORKER, Excludes<br>HVAC Duct Installation.....                     | \$ 24.88    | 5.97 |
| SPRINKLER FITTER (Fire<br>Sprinklers).....                                      | \$ 22.94    | 0.00 |
| TILE FINISHER.....  | \$ 11.22 ** | 0.00 |
| TILE SETTER.....  | \$ 14.25 ** | 0.00 |
| TRUCK DRIVER: 1/Single Axle   |             |      |

|  |             |      |
|--|-------------|------|
| Truck.....                               | \$ 16.40    | 0.81 |
| TRUCK DRIVER: Dump Truck.....            | \$ 12.39 ** | 1.18 |
| TRUCK DRIVER: Flatbed Truck.....         | \$ 19.65    | 8.57 |
| TRUCK DRIVER: Semi-Trailer<br>Truck..... | \$ 12.50 ** | 0.00 |
| TRUCK DRIVER: Water Truck.....           | \$ 12.00 ** | 4.11 |

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request

review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISIO"



SECTION 01 11 00

SUMMARY OF WORK

PART 1 - GENERAL

1.1 SUMMARY

A. Related Requirements:

1. Document 00 21 16 - Instructions to Proposers.
2. Document 00 70 00 - General Conditions of the Contract for Construction: Provisions for use of site; Owner occupancy; Relations of Contractor - subcontractors.
3. Document 00 73 00 - Supplementary Conditions to the Contract for Construction.
4. Section 01 32 16 - Construction Progress Schedules: Format of work schedule.
5. Section 01 50 00 - Temporary Facilities and Controls.

1.2 DESCRIPTION

- A. The work comprises the construction of Marcus H.S. Food Service Equipment Replacements and Renovations for Lewisville Independent School District, Lewisville, Texas, as shown on the drawings and described in the specifications. The work will be done under one lump sum contract.
- B. Indication on the drawings or mention in the specifications of articles, materials, operations or methods requires that the Contractor provide each item indicated or mentioned of the quality or subject to the qualifications noted and perform according to the conditions stated each operation described and provide therefor all necessary labor, equipment, services and incidentals.
1. Subcontractors are responsible for examining the architectural drawings for structural, mechanical, electrical, and plumbing items. Items shown on these drawings shall be furnished by the appropriate subcontractor.

1.3 CONDITIONS OF THE CONTRACT

- A. The General Conditions, bound herewith as preceding portions of these specifications, form a part thereof and shall govern the work under each section.
- B. Additional General Conditions:
1. If any work is completed on District premises, when the Vendor arrives at any school/facility, Vendor's representatives must report to the District designated project manager, to the main office when open to sign in. If the Vendor is working multiple days, they are required to report and sign in daily. Proper clothing will be worn at all times. Sleeved t-shirts and long pants are the preferred attire with the company logo on the shirts. Any deviation from this will be reviewed for acceptance. LISD requires all Vendors doing business on LISD property to make their employees and vehicles easily identifiable from company logos on items such as vehicles, ball caps, shirts, and/or ID badges.
  2. Alcohol, tobacco, and firearms are prohibited on all District property.
  3. Any damage done to LISD property or its customer's property is the sole responsibility of the Vendor.
  4. Vendor's response shall include any and all costs within their proposal response, including but not limited to costs of bonding, delivery, permits, specialized equipment, or any other cost necessary.
  5. Any product provided is to be factory-new, and carry full factory warranty. No refurbished units are allowed.
  6. The Vendor shall be solely responsible for its use of any subcontractor or any third-party acting on behalf of the Vendor.
  7. Once a project begins, the Vendor selected must finish the work.
  8. Vendors are to adhere to the requirements of this document. Specifications and requirements conveyed within this solicitation document are minimum requirements/standards, and is not intended to be exhaustive. For any requirements or standards not specifically defined within this document, the Vendor shall use its best efforts and adhere to industry best practices and, where applicable, manufacturer standards/requirements
  9. LISD shall only be liable to pay for products and services actually rendered and accepted by LISD.
  10. Any Agreement or Contract resulting from this solicitation is not exclusive, and the District reserves the right to purchase goods and services from other vendors at any time.
  11. At any time LISD reserves the right to require the Vendor to complete additional forms, documents, or certifications to be additionally completed where required by law.
  12. The Vendor shall adhere to all applicable District, local, state, and federal health safety guidelines, procedures, statutes, laws, etc.

#### 1.4 EXISTING SITE CONDITIONS

- A. Visit and examine the site. Upon award of the Contract, the Contractor shall accept the condition of the site before beginning the work required.

#### 1.5 SPECIAL REQUIREMENTS

- A. The present building houses an operating facility that must continue in operation during the construction period, except as the Architect and Owner may otherwise direct. Plumbing, heating, ventilating, electrical and telephone systems shall continue to function with a minimum of interruptions in service. Do not block required fire exits.
- B. Assume responsibility for the protection of areas of work and provide and maintain protections required. Protect existing surfaces of the building and equipment, both interior and exterior, as required during the construction period. Provide necessary dust screens, drop cloths and temporary walls and/or coverings as may be required for protection. Existing surfaces that are damaged due to construction shall be patched or replaced to original condition.
- C. Where designated on the drawings, salvage, relocate and reinstall certain items. Existing items so designated shall be properly installed, securely fastened as required, set plumb and level and left complete and operational. Exercise extensive care in relocating such items so as to prevent damage. Other existing building materials indicated to be removed or demolished, unless noted otherwise or claimed by the Owner shall become property of the Contractor and shall be removed from the site immediately.
  1. Items to be salvaged and reinstalled or relocated include but are not limited to:
    - a. 2 air screen units at Marcus High School
  2. Coordinate relocation or reinstallation with Owner.
- D. Execute Certificate of Substantial Completion for each designated portion of work prior to Owner occupancy. Following execution of a Substantial Completion Certificate for a designated portion of the work, the Contractor shall permit:
  1. Access for Owner personnel.
  2. Use of parking facilities for the benefit of the Owner.
  3. Operation of HVAC and electrical systems for the benefit of the Owner.

Despite partial Owner occupancy, the Contractor shall remain responsible for portions of the work which have not attained Substantial Completion and for which a Substantial Completion Certificate, which shall designate the date on which the Owner shall become responsible for utilities, maintenance, security, damage to the work and insurance, has not been executed.

- E. The loop fire lane and fire hydrants are required by the City to be in place and operational during construction at existing buildings.

#### 1.6 SEQUENCE OF CONSTRUCTION

- A. Work shall be started upon formal "Notice-to-Proceed."
- B. The Contractor agrees that, from the compensation otherwise to be paid, the Owner may retain the sum of \$500.00 for each calendar day after the Date of Substantial Completion that the work remains incomplete. This sum is agreed upon as the proper measure of Liquidated Damages which the Owner will sustain per diem by the failure of the Contractor to complete the work at the time stipulated in the Contract. This sum is not to be construed in any sense a penalty.

#### 1.7 CONTRACTOR USE OF PREMISES

- A. Limit use of premises for work, for storage and for access, to allow for Owner occupancy.
- B. Coordinate use of premises under direction of Owner.
- C. Assume full responsibility for protection and safekeeping of products under this contract.
- D. Obtain and pay for use of additional storage or work areas needed when required for operations under this Contract.

- E. During construction the Owner will continue to perform normal activities in and around the adjacent existing building. Proper and safe access to the Owner-occupied areas shall be maintained. Interruption of mechanical and electrical services to the building shall be only at such times and for lengths of time as approved by the Owner.
- F. There shall be no storage of materials or equipment in the occupied portions of the existing building. There shall be no fires on the site or in the building. There shall be no dumping on Owner's property.
- G. Worker Identity Badging Requirements: Provide construction personnel (including subcontractors and suppliers regularly visiting the project site) with identification badges, with photograph. Identification badges shall be worn visibly by construction personnel on the construction site or on Owner's property. **NO EMPLOYEE WILL BE PERMITTED ON SITE WITHOUT THIS BADGE DISPLAYED ON THE EMPLOYEE.** Contractor must assure that the Crisis Management contact information is provided on the reverse side of each worker's badge. Temporary or visitor badges will be provided for persons who are identified as having an infrequent or temporary legitimate business need for access to the site.

#### 1.8 WORK RESTRICTIONS

- A. On-Site Work Hours: Work shall be generally performed on the project site during normal business working hours of 6:00 a.m. to sundown, Monday through, or City ordinance whichever is more restrictive.
  - 1. Weekend Hours: Comply with City ordinance restrictions for weekend work. No work shall be performed on Sundays, unless specifically allowed by City and Owner.
  - 2. Early Morning Hours: Comply with City noise ordinances for restriction of early-morning concrete pours and other noisy construction activities. Owner's testing laboratory personnel will be available only during on-site work hours listed above.
- B. Work Restrictions within Existing Building(s): Work shall be generally performed inside the existing building during the summer break and after normal school classes Monday through Friday. During student holidays when the faculty and staff may be on campus, extent of work and utility interruption shall be coordinated with the Owner in advance. On dates designated as testing days, work within the existing building is not allowed and work in other areas may need to be limited to keeping down the amount of noise and distraction for the students. Work on these days shall be coordinated with the Owner in advance.

#### 1.9 OWNER-FURNISHED PRODUCTS

- A. Contractor Responsibilities
  - 1. Protect products from damage.
  - 2. Repair or replace items damaged by Contractor.
  - 3. Make all necessary electrical and plumbing service connections to Owner supplied Food Service Equipment.
- B. Schedule of Owner-furnished items
  - 1. Refer to Drawings.

#### 1.10 COORDINATION

- A. Drawing details and other sections of these specifications covering work connected with or relating to that specified under a specific heading shall be examined for conditions which may affect that part of the work. Failure to do so will not relieve those furnishing materials and/or labor under a specification heading from supplying materials or performing work reasonably necessary to properly coordinate their work with that of other trades.

#### 1.11 LAYING OUT WORK, MEASUREMENTS

- A. Verify measurements at the building. No extra compensation will be allowed for differences between actual dimensions and dimensions indicated on the drawings. Figured dimensions and measurements taken at the site shall take precedence over scaled dimensions.

#### 1.12 DISCREPANCIES

- A. In case of discrepancies within the drawings, within the specifications, or between the drawings and specifications, the better quality and greater quantity, in the opinion of the Architect, shall be furnished and installed.

- B. PIPING- Should active piping or conduit be encountered below grade within the building structure and be found at variance with the known conditions indicated by the drawings and specifications, said piping and/or conduit shall be relocated as required by the Architect, and the contract sum shall be fairly adjusted on the basis of the cost of labor and materials. The Contractor shall provide temporary support of active piping and conduit encountered in the excavations until permanently supported or removed. The Contractor shall cut off and cap or plug abandoned lines at least 3 ft. outside the building lines. Conform to the applicable requirements of the locality or governing agency.

#### 1.13 PROTECTION

- A. General: Limit use of the premises to construction activities in areas indicated; allow for Owner occupancy in adjacent spaces and around the site.
  - 1. Confine operations to areas within Contract limits indicated. Portions of the building which are outside the areas construction operations are indicated, are not to be disturbed.
  - 2. Keep driveways and entrances serving the premises clear and available to the Owner and the Owner's employees. Do not use these areas for parking or storage of materials without prior approval. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on site.
  - 3. Do not dispose of organic and hazardous material on site, either by burial or by burning. Disposable material and trash must be removed properly.
- B. Assume responsibility for the premises and provide and maintain protections required by the governing laws, regulations and ordinances. The Contractor shall be responsible for loss or damage caused by him or his workmen to the property of the Owner or to the work or materials installed, and shall make good loss, damage or injury without cost to the Owner.
- C. The protection of adjacent property shall include but will not necessarily be limited to the erection and maintenance of shoring, underpinning and fences as necessary to protect and support existing work to be left in place.
- D. Finished floors shall be protected against damage by workmen and equipment during the work. Where materials are carried into the building, the building floors shall be covered to protect the work against dirt or grit being ground in.
- E. Where work is being done on the existing building, the furniture, fixtures and equipment in the building shall be covered with heavy plastic sheeting or clean tarpaulins to protect the property against damage and stains. The furniture and equipment shall not be removed from the building.
- F. Trees and shrubs on the site which do not have to be removed for the new work shall be protected against damage. No Contractor shall remove or trim trees and shrubs in the area without the express approval of the Architect.
- G. Send proper notices, make necessary arrangements and perform other services required for the care, protection and maintenance of Public Utilities, including fire plugs and wires and other items of this character on and around the building site.
- H. Maintain accessible building exits required by the City during construction. Protection of these exits shall include dust-proof enclosures, illumination and exit lighting required.
- I. While school is in session, provide appropriate measures to control the migration of dust and odors into occupied areas of the school.

#### 1.14 CUTTING AND PATCHING

- A. Cutting and chasing of existing construction for relocation of mechanical and electrical work and for installation of pipes and ducts will be done by the trades concerned. Patching and finishing shall be done by the Contractor. This work shall be done with proper tools and by careful workmen of the particular trade to which such work belongs and shall be done without extra cost to the Owner.

#### 1.15 RECORD DRAWINGS

- A. Maintain a complete clean set of drawings and Project Manual in the project field office for the sole purpose of recording "installed" conditions. Installed conditions shall include addendum items, change orders, or other items which come up during the construction phase which deviate from the Construction Documents.

Changes made in these drawings and Project manual in connection with the final construction and installation shall be neatly made in red ink. Upon completion of the project, the marked set of drawings and Project Manual shall be delivered to the Architect for subsequent transmittal to the Owner. These drawings shall be maintained to reflect the current conditions of the work and changes shall be reviewed on a monthly basis with the Architect's representative. The Contractor's updating of the "installed" condition drawings and Project Manual shall be a prerequisite to the monthly review of the Contractor's payment request by the Architect's representative.

#### 1.16 INSTRUCTIONS CONCERNING ASBESTOS

- A. In the event the Contractor encounters on the site material reasonably believed to be asbestos which has not been rendered harmless, the Contractor shall immediately stop work in the area affected and report the condition to the Owner in writing. If, in fact the material is asbestos and has not been rendered harmless, the work in the affected area shall not thereafter be resumed until the asbestos has been removed or rendered harmless by the Owner. The work in the affected area shall be resumed in the absence of asbestos, or when it has been rendered harmless, by written agreement of the Owner and Contractor.
- B. The Contractor will not be required to perform without consent work relating to asbestos.

#### PART 2 - PRODUCTS

Not used

#### PART 3 - EXECUTION

Not used

END OF SECTION

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SECTION 01 21 00

ALLOWANCES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Administrative and procedural requirements governing allowances.
  - 1. Certain materials and equipment are specified in the contract documents by allowances. Allowances have been established in lieu of additional requirements and to defer selection of actual materials and equipment to a later date when additional information is available for evaluation. If necessary, additional requirements will be issued by change order.
  
- B. Related Requirements:
  - 1. General Conditions of the Contract for Construction.
  - 2. Section 01 22 00 - Unit Prices; procedures for using unit prices.
  - 3. Section 01 32 16 - Construction Progress Schedules: Product delivery and installation dates.
  - 4. Individual Specifications Sections Listed Under Schedule of Allowances: Specification of products and installation under allowances.

1.2 COSTS INCLUDED IN ALLOWANCES

- A. Cost of product to Contractor or subcontractor, less applicable trade discounts.
  
- B. Delivery to site.
  
- C. Applicable taxes.

1.3 CONTRACTOR COSTS INCLUDED IN CONTRACT SUM

- A. Products handling at site, including unloading, uncrating and storage.
  
- B. Protection of products from elements and from damage.
  
- C. Labor for installation and finishing.
  
- D. Other expenses required to complete installation.
  
- E. Contractor overhead and profit.

1.4 ADJUSTMENT OF COSTS

- A. Should the net cost be more or less than the specified amount of the allowance, the contract sum will be adjusted accordingly by change order.
  
- B. Submit any claims for anticipated additional costs at the site, or other expenses caused by the selection under the allowance, prior to execution of the work.
  
- C. Submit documentation for actual additional costs at the site, or other expenses caused by the selection under the allowance, prior to execution of the work.
  
- D. Failure to submit claims within the designated time will constitute a waiver of claims for additional costs.

1.5 ARCHITECT RESPONSIBILITIES

- A. Consult with Contractor in consideration of products, suppliers and installers.
  
- B. Select products, obtain Owner's written decision, and transmit full information to Contractor as follows
  - 1. Manufacturer, product, model or catalog number, accessories, attachments and finishes.
  - 2. Supplier and installer as applicable.

3. Cost to Contractor, delivered to site (and installed, if so specified).

#### 1.6 CONTRACTOR RESPONSIBILITIES

- A. At the earliest practical date after award of the contract, advise Architect of the date when final selection and purchase of each product or system described by an allowance must be completed to avoid delaying the work.
- B. Assist Architect in determining suppliers; and installers; obtain proposals when requested.
- C. Make recommendations for Architect consideration.
- D. Promptly notify Architect of any reasonable objections against supplier or installer.
- E. On notification of selection execute purchase agreement with designated supplier and installer.
- F. Arrange for and process shop drawings, product data and samples.
- G. Arrange for delivery. Promptly inspect products upon delivery for completeness, damage and defects. Submit claims for transportation damage.
- H. Install, adjust and finish products.
- I. Provide warranties for products and installation.

#### 1.7 CORRELATION WITH CONTRACTOR SUBMITTALS

- A. Schedule shop drawings, product data, samples and delivery dates, in progress schedule for products selected under allowances.

PART 2 - PRODUCTS – Not used.

#### PART 3 - EXECUTION

##### 3.1 EXAMINATION

- A. Examine products covered by an allowance promptly on delivery for damage or defects. Return damaged or defective products to manufacturer for replacement.

##### 3.2 PREPARATION

- A. Coordinate allowance work with related work to ensure proper integration and interface.

##### 3.3 SCHEDULE OF ALLOWANCES

- A. Allowance No. 1: Allow the lump sum of \$20,000.00 Owner's Contingency for the changes requested by the Owner.

END OF SECTION

SECTION 01 23 00

ALTERNATES

PART 1 - GENERAL

1.1 SUMMARY

- A. Requirements Included:
  - 1. Identification and description of alternate work.
  - 2. The amount shown in the proposal form for each alternate shall include all overhead, profit, insurance and other costs incidental to the performance under the alternate.
- B. Related Requirements:
  - 1. Proposal Form: Quotation of cost of each alternate.
  - 2. Contract Form: Alternates accepted by Owner for incorporation into the work.
  - 3. Section of specifications identified in each alternate.

1.2 PROCEDURES

- A. Proposers are required to submit alternate amounts to add work or to deduct work from the base proposal as described below. Failure to submit alternate amounts in spaces provided on proposal form shall be basis for disqualification of proposal.
- B. The successful proposer shall not modify, withdraw or cancel any of the alternate proposals or any part thereof for 30 days after date of receipt of proposals, unless specifically noted otherwise.
- C. Contractor shall be responsible for any changes in the Work affected by acceptance of alternates. Claims for additional costs or time extensions resulting from changes to the Work as a result of the Owner's election of any or all alternates will not be allowed.
- D. Refer to drawings and technical specifications sections for items of work affected by alternates.
- E. Election of alternates will be exercised at the option of Owner.
- F. Coordinate related work and modify or adjust surrounding work as required to complete the Work, including changes under each alternate.
  - 1. Include as part of each alternate, miscellaneous devices, accessory objects and similar items incidental to, or required for, a complete installation whether or not indicated as part of alternate.
  - 2. Cost listed for each alternate include cost of related coordination, modification, or adjustment.
- G. Notification: Immediately following the award of contract, Contractor shall prepare and distribute to each entity or person to be involved in the performance of the Work, a notification of the status of each alternate scheduled herein. Indicate which alternates have been accepted, rejected, or deferred for later consideration. Include a complete description of negotiated modifications to alternates, if any.

1.3 SELECTION AND AWARD OF ALTERNATES

- A. Indicate variation in base proposal amount as a result of the prices for the alternates described below and listed on the proposal form document or any supplement to it, by adding to, or deducting from, the base proposal amount or by indicating "No Change."
- B. Indicating "No Proposal" as an alternate is unacceptable and is reason for rejection of proposal.

1.4 SCHEDULE OF ALTERNATES

- A. Contractor may provide voluntary alternates for consideration.

Marcus H.S. Food Service Equipment Replacements and Renovations  
Lewisville ISD  
Lewisville, Texas

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

SECTION 01 29 00

PAYMENT PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
  - 1. Applications and Certificates for Payment.
  - 2. Change Order Procedures.
  - 3. Schedule of Values: Submit to the Architect the Schedule of Values allocated to various portions of the work within five days after "Notice-to-Proceed". Upon request of Architect, support values with data which will substantiate their correctness.
- B. Related Requirements:
  - 1. Conditions of the Contract for Construction.
  - 2. Section 01 32 16 - Construction Progress Schedules.
  - 3. Section 01 77 00 - Closeout Procedures.
  - 4. Section 01 78 39 - Project Record Documents.

1.2 APPLICATIONS AND CERTIFICATES FOR PAYMENT

- A. Progress payments shall be made as the work proceeds at intervals stated in the Contract.
- B. Work covered by progress payments shall, at the time of payment, become the property of the Owner.
- C. Form of Application and Certificate for Payment shall be notarized AIA Document G702 - Application and Certification for Payment, supported by AIA document G703 - Continuation Sheet. Submit two hard copies. Architect will retain a digital copy and return signed hard copies to the Owner and Contractor.
- D. Conditions governing regular schedule for applications, payment and retainage are as stated in the Contract.
- E. With each Application for Payment, Contractor shall certify that such Application for Payment represents a just estimate of cost reimbursable to Contractor under terms of Contract.

1.3 CONSTRUCTION CHANGE ORDER PROCEDURES

- A. Contractor to submit to Architect within five days of execution of Owner/Contractor Agreement name of individual authorized to accept changes on behalf of Contractor, and to be responsible for informing others in Contractor's employ of changes in the work.
- B. Change Order forms will be furnished and issued by Architect.
- C. Contractor Documentation of Changes:
  - 1. Maintain detailed records of work done on an accounting basis acceptable to Architect and Owner. Provide full information required for evaluation of proposed changes.
  - 2. Document each quotation for a change in cost or time with sufficient data to allow evaluation of quotation.
  - 3. On request, provide additional data to support computations:
    - a. Quantities of products, labor and equipment.
    - b. Insurance and bonds.
    - c. Overhead and profit.
    - d. Justification for any change in Contract Time.
    - e. Credit for deletions from Contract, similarly documented.
  - 4. Support each request for additional costs, and for work proposed on a time and material basis, with description of products, equipment, cost of labor and subcontracts, completely documented.
  - 5. Computation for changes in work will be computed in one of the manners described in the Conditions of the Contract.
- D. Initiation of Changes:
  - 1. Architect may submit Proposal Request which includes detailed description of change with supplementary or revised drawings and specifications.

2. Contractor may initiate a proposed change by submittal of a request to Architect describing proposed change with statement of reason for change, and proposed effect on Contract Sum and Contract Time with full documentation and a statement of the effect on work of separate contractors. Document any requested substitutions in accordance with SECTION 01 62 00 - PRODUCT OPTIONS. Submission of such requests and receipt of same by Architect does not mean acceptance, or approval of proposed change.
- E. Authorization:
1. The Owner may request, through the Architect, a Construction Change Directive, in writing, instructing Contractor to proceed with changes of all or in part of work, for subsequent inclusion in a Change Order that is pending. Directive will propose basis for necessary adjustments, if any, to Contract Sum or Time.
  2. Changes that affect Contract Sum and/or Contract Time will require a Change Order signed by the Owner and the Architect. Contractor's signature indicates agreement. Other orders, written or oral, by the Owner through the Architect or by the Architect shall be treated as a Change Order only if Contractor gives Owner proper written notice as described in Conditions of Contract.
  3. Promptly execute the change in work only upon receipt of approved Change Order or Owner's written Construction Change Directive.
- F. Execution:
1. Architect will issue Change Orders for signatures of parties as provided in Conditions of Contract.
  2. Promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as a separate line item and adjust Contract Sum as shown on Change Order.
  3. Promptly revise Progress Schedules to reflect change in Contract Time, revise sub-schedules to adjust times for other items of work affected by Change, and resubmit Schedule.
  4. Promptly enter Changes in Project Record Documents.

#### 1.4 SCHEDULE OF VALUES FORM AND CONTENT

- A. Type schedule on 8-1/2" x 11" white paper; Contractor's standard forms and automated printout will be considered for approval by Architect upon Contractor's request. Identify schedule with:
1. Title of project and location.
  2. Architect and Architect's project number.
  3. Name and address of Contractor.
  4. Contract designation.
  5. Date of submission.
- B. Follow the table of contents of this project manual as the format for listing component items.
1. Identify each line item with the number and title of the respective major section of the specifications.
- C. For each major line item list sub-values of major products or operations under the item.
- D. For the various portions of the work:
1. Each item shall include a directly proportional amount of the Contractor's overhead and profit.
  2. For items on which progress payments will be requested for stored materials, break down the value into:
    - a. Cost of the materials, delivered and unloaded, with taxes paid.
    - b. Total installed value.
  3. Submit a subschedule for each separate stage of work in SECTION 01 11 00 - SUMMARY OF WORK.
- E. The sum of values listed in the schedule shall equal the total contract sum.
- F. Indicate separate value associated with materials and labor.
- G. Re-submittal: After review by Architect, revise and resubmit schedule as necessary.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

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SECTION 01 31 00

PROJECT MANAGEMENT AND COORDINATION

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Coordination of work of the contract.
- B. Related Requirements:
  - 1. Section 01 11 00 - Summary of Work: Sequence of construction and Owner occupancy.
  - 2. Section 01 31 19 - Project Meetings.
  - 3. Section 01 62 00 - Product Options.
  - 4. Section 01 73 29 - Cutting and Patching.
  - 5. Section 01 77 00 - Closeout Procedures: Closeout submittals.

1.2 DESCRIPTION

- A. Coordinate scheduling, submittals and work of the various sections of specifications to ensure efficient and orderly sequence of installation of construction elements, with provisions for accommodating items to be installed later.
- B. Coordinate sequence of work to accommodate Owner occupancy as specified in SECTION 01 11 00 - SUMMARY OF WORK.

1.3 MEETINGS

- A. In addition to progress meetings specified in SECTION 01 31 19 - PROJECT MEETINGS, hold coordination meetings and pre-installation conferences with personnel and subcontractors to ensure coordination of work.

1.4 COORDINATION OF SUBMITTALS

- A. Schedule and coordinate submittals specified in SECTION 01 33 23 - SHOP DRAWINGS, PRODUCT DATA AND SAMPLES.
- B. Coordinate work of various sections having interdependent responsibilities for equipment, such as installing, connecting to and placing in service.
- C. Coordinate requests for substitutions to ensure compatibility of space, of operating elements and effect on work of other sections.

1.5 REQUEST FOR INFORMATION (RFI)

- A. General: Immediately on discovery of the need for additional information, clarification, or interpretation of the Contract Documents, Contractor shall prepare and submit an RFI in the form specified.
  - 1. Architect will return without response those RFIs submitted to Architect by other entities controlled by Contractor.
  - 2. Coordinate and submit RFIs in a prompt manner to avoid delays in Contractor's work or work of subcontractors.
  - 3. Contractor shall always include a proposed solution along with the RFI.
  - 4. RFI's submitted to the Contractor by subcontractors, vendors, suppliers, or other parties to the Work shall be reviewed by the Contractor prior to submission to the Architect. If the Architect deems that such RFI requests have not been adequately reviewed by the Contractor, such requests will be returned to the Contractor for further action.
  - 5. RFI requests are limited to a request for interpretation or clarification of the requirements of the Contract Documents. Interpretations provided by the Architect shall not change the requirements of the Contract or the Contract Documents. If the Contractor determines that the Architect's response to an RFI gives cause for a change in the Contract or the Contract Documents, the Contractor shall promptly, within 5 working days, give written notice to the Architect of request for adjustments. Requests for adjustments to the Contract shall be submitted in a manner consistent with the terms and conditions of the Contract Documents.

- B. Content of the RFI: Include a detailed, legible description of item needing information or interpretation and the following:
  - 1. Project name.
  - 2. Owner name.
  - 3. Owner's Project number.
  - 4. Name of Architect.
  - 5. Architect's Project number.
  - 6. Date.
  - 7. Name of Contractor.
  - 8. RFI number, numbered sequentially.
  - 9. RFI subject.
  - 10. Specification Section number and title and related paragraphs, as appropriate.
  - 11. Drawing number and detail references, as appropriate.
  - 12. Field dimensions and conditions, as appropriate.
  - 13. Contractor's suggested resolution. If Contractor's suggested resolution impacts the Contract Time or the Contract Sum, Contractor shall state impact in the RFI.
  - 14. Contractor's signature.
  - 15. Attachments: Include sketches, descriptions, measurements, photos, Product Data, Shop Drawings, coordination drawings, and other information necessary to fully describe items needing interpretation.
    - a. Include dimensions, thicknesses, structural grid references, and details of affected materials, assemblies, and attachments on attached sketches.
- C. Architect's Action: Architect will review each RFI, determine action required, and respond. Allow five working days for Architect's response for each RFI. RFIs received by Architect after 1:00 p.m. will be considered as received the following working day.
  - 1. The following Contractor-generated RFIs will be returned without action:
    - a. Requests for approval of submittals.
    - b. Requests for approval of substitutions.
    - c. Requests for approval of Contractor's means and methods.
    - d. Requests for coordination information already indicated in the Contract Documents.
    - e. Requests for adjustments in the Contract Time or the Contract Sum.
    - f. Requests for interpretation of Architect's actions on submittals.
    - g. Incomplete RFIs or inaccurately prepared RFIs.
  - 2. Architect's action may include a request for additional information, in which case Architect's time for response will date from time of receipt by Architect of additional information.

#### 1.6 COORDINATION OF SPACE

- A. Coordinate use of project space and sequence of installation of mechanical and electrical work which is indicated diagrammatically on drawings. Follow routings shown for pipes, ducts and conduits as closely as practicable, with due allowance for available physical space; make runs parallel with lines of building. Utilize space efficiently to maximize accessibility for other installations, for maintenance and for repairs.
- B. In finished areas, except as otherwise shown, conceal pipes, ducts and wiring in the construction. Coordinate locations of fixtures and outlets with finish elements.

#### 1.7 COORDINATION OF CONTRACT CLOSEOUT

- A. Coordinate completion and cleanup of work of separate sections in preparation for substantial completion of portions of work designated for Owner partial occupancy.
- B. After Owner occupancy of premises, coordinate access to site by various sections for correction of defective work and work not in accordance with contract documents, to minimize disruption of Owner's activities.
- C. Assemble and coordinate closeout submittals specified in SECTION 01 77 00 - CLOSEOUT PROCEDURES.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

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SECTION 01 31 19

PROJECT MEETINGS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
  - 1. Scheduling and administration of progress meetings.
  - 2. Pre-installation conferences.
- B. Related Requirements:
  - 1. Section 01 31 00 - Project Management and Coordination.
  - 2. Section 01 31 19.13 - Preconstruction Meetings: Owner's preconstruction conference and pre-mobilization conference.
  - 3. Section 01 32 16 - Construction Progress Schedules.
  - 4. Section 01 33 23 - Shop Drawings, Product Data and Samples.
  - 5. Section 01 45 00 - Quality Control.
  - 6. Section 01 78 23 - Operation and Maintenance Data.
  - 7. Section 01 78 39 - Project Record Documents.

1.2 PROGRESS MEETINGS

- A. The Contractor will schedule monthly construction progress meetings, throughout progress of work. They will prepare agenda and distribute notice of each meeting to participants.
- B. Contractor shall make physical arrangements.
- C. Contractor will preside at meetings and issue meeting minutes.
- D. Location of Meetings: Contractor's field office.
- E. Attendance: Contractor, job superintendent, and Architect. Owner and professional consultants will attend as appropriate. Subcontractors and suppliers shall attend as Architect or Contractor sees necessary to agenda.
- F. Anticipated Agenda:
  - 1. Review of any outstanding old business from prior meeting minutes.
  - 2. Review of Contractor's updated Construction Schedule, including minimum two-week look ahead schedule.
  - 3. Review of work in-progress.
  - 4. Field observations and decisions.
  - 5. Status of correction of deficient items.
  - 6. Review of outstanding RFI's.
  - 7. Identification of problems which impede planned progress.
  - 8. Review of submittal schedule and status of submittals, including pending submittals and resubmittals.
  - 9. Review of off-site fabrication and delivery schedules.
  - 10. Corrective measures to regain projected schedules if project is behind schedule.
  - 11. Review of quality and work standards.
  - 12. Review of Proposal Request and Change Proposal Logs, including any known pending changes.
  - 13. Effect of proposed changes on progress schedule and coordination.
  - 14. Review of Contractor's updates to Project Record Documents.
  - 15. Review and signing of formal Application for Payment, as applicable.
  - 16. For Construction Manager projects, discuss variances between actual and estimated GMP costs.
  - 17. Other business relating to work.

1.3 PRE-INSTALLATION CONFERENCES

- A. When required in individual specification section, convene a pre-installation conference at work site prior to commencing work of the section.
- B. Require attendance of entities directly affecting, or affected by, work of the section.

- C. Notify Architect four days in advance of meeting date.
- D. Prepare agenda, preside at conference, record minutes and distribute copies within two days after conference to participants.
- E. Review conditions of installation, preparation and installation procedures and coordination with related work.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

SECTION 01 31 19.13

PRECONSTRUCTION MEETINGS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Contractor participation in preconstruction meetings.
- B. Related Requirements:
  - 1. Section 01 11 00 - Summary of Work: Administrative provisions.
  - 2. Section 01 31 00 - Project Management and Coordination.
  - 3. Section 01 31 19 - Project Meetings.

1.2 PRECONSTRUCTION MEETING

- A. Architect will schedule meeting within 15 days after notice of award.
- B. Attendance: Owner, Architect, General Contractor and representatives of major subcontractors.
- C. Agenda
  - 1. Submittal of executed bonds and insurance certificates.
  - 2. Execution of Owner-Contractor Agreement.
  - 3. Distribution of Contract Documents.
  - 4. Submittal of list of subcontractors, list of products, schedule of values and progress schedule.
  - 5. Designation of responsible personnel.
  - 6. Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal requests, change orders, allowances and Contract closeout procedures.
  - 7. Scheduling.
  - 8. Use of premises by Owner and Contractor.
  - 9. Owner's requirements and occupancy.
  - 10. Temporary facilities.
  - 11. Survey and building layout.
  - 12. Security and housekeeping procedures.
  - 13. Procedures for testing.
  - 14. Procedures for maintaining record documents.
  - 15. Requirements for startup of equipment.
  - 16. Accessibility Issues.
  - 17. Inspection and acceptance of equipment put into service during construction period.
  - 18. Notice to proceed.
  - 19. Color samples.
  - 20. Procedures for site meetings.
  - 21. Site access and security.
  - 22. Procedures and processing of TEA "Certification of Project Compliance" form.
  - 23. Substantial and final project completion procedures.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

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SECTION 01 32 16

CONSTRUCTION PROGRESS SCHEDULES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Procedures for preparation and submittal of digital construction progress schedules and periodical updating.
- B. Related Requirements:
  - 1. Section 01 11 00 - Summary of Work: Work sequence.
  - 2. Section 01 21 00 - Allowances.
  - 3. Section 01 29 00 - Payment Procedures: Schedule of Values.
  - 4. Section 01 33 23 - Shop Drawings, Product Data and Samples.

1.2 SUBMITTALS

- A. Within 21 days of the contract date, Contractor shall prepare and submit a digital Critical construction schedule for the work. After review, resubmit required revised data within 5 days.
- B. Submit revised digital Critical Path Construction Schedule monthly with each Application for Payment.
- C. Submit under transmittal letter specified in SECTION 01 33 23 - SHOP DRAWINGS, PRODUCT DATA AND SAMPLES.

1.3 WORK SCHEDULE FORMAT

- A. The schedule shall not exceed time limits current under the Contract Documents and shall be subject to the approval of the Architect. The Contractor shall prosecute the work vigorously and make every effort to start and complete each phase of the work on or before the dates stated.
- B. Should actual construction of project vary from the Critical Path schedule, Contractor shall take whatever actions are necessary to improve progress as quickly as possible in order to meet pre-determined milestones. Revise and re-submit schedule not less than every 30 calendar days. Presentation of the existing or updated Critical Path schedule, in three copies, along with the Certificate of Payment Request shall be a prerequisite to the monthly review of the payment request by the Architect's representative.
- C. Sequence of Listings: The chronological order of the start of each item of work.
- D. Scale and Spacing: To provide space for notations and revisions.
- E. Sheet Size: Minimum 11" x 17".

1.4 CONTENT

- A. Show complete sequence of construction by activity, with dates for beginning and completion of each element of construction.
- B. Identify each item by major specification section number.
- C. Identify work of separate stages and other logically grouped activities.
- D. Provide sub-schedules for each stage of work identified in SECTION 01 11 00 - SUMMARY OF WORK.
- E. Provide sub-schedules to define critical portions of entire schedule.
- F. Show accumulated percentage of completion of each item, and total percentage of work completed, as of the first day of each month.

G. Provide separate schedule of submittal dates for shop drawings, product data and samples, including Owner furnished products and dates reviewed submittals will be required from Architect. Show decision dates for selection of finishes.

H. Show delivery dates for Owner furnished products.

I. Coordinate content with SECTION 01 29 00 - PAYMENT PROCEDURES, Schedule of Values.

#### 1.5 REVISIONS TO SCHEDULES

A. Indicate progress of each activity to date of submittal, and projected completion date of each activity.

B. Identify activities modified since previous submittal, major changes in scope and other identifiable changes.

C. Provide narrative report to define problem areas, anticipated delays and impact on Schedule. Report corrective action taken, or proposed and its effect.

#### 1.6 DISTRIBUTION

A. Distribute copies of reviewed schedules to job site file, subcontractors, suppliers and other concerned entities.

B. Instruct recipients to promptly report, in writing, problems anticipated by projections shown in schedules.

#### PART 2 - PRODUCTS

Not used.

#### PART 3 - EXECUTION

Not used.

END OF SECTION

SECTION 01 33 23

SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Digital submission of shop drawings.
- B. Related Requirements:
  - 1. General Conditions of the Contract for Construction: Definitions and basic responsibilities of entities.
  - 2. Section 01 31 00 - Project Management and Coordination: Coordination of submittals.
  - 3. Section 01 32 16 - Construction Progress Schedules: Schedules for submittals.
  - 4. Section 01 45 00 - Quality Control: Mockups and samples for testing.
  - 5. Section 01 50 00 - Temporary Facilities and Controls: Project management software.
  - 6. Section 01 62 00 - Product Options.
  - 7. Section 01 78 23 - Operation and Maintenance Data.
  - 8. Section 01 78 39 - Project Record Documents.

1.2 GENERAL

- A. Refer to General Conditions, [Paragraph 3.12] (for A201 & A201/CMA) (Shop Drawings, Product Data and Samples) .
- B. Digital Submittals: Submit to the Architect, or applicable consultant, shop drawings, product data, and samples required by specification sections. Do not submit illegible fax copies nor carbon copies of shop drawings and product data.
  - 1. Submit using the Architect's web-based project management program (Newforma Info Exchange). Prepare submittals as .pdf files, with a single file for each submittal, and upload to the Architect's project management program. Enter required data in program to fully identify submittal in accordance with the required submittal numbering format.
- C. Within **30** days of the contract date Contractor shall prepare and submit with the Schedule of Values a comprehensive schedule of shop drawings, product data and samples. This schedule shall include products which are proposed for substitution. Also include the estimated date of each submittal and anticipated date of submittal return. Allow the Architect reasonable time to review submittals.
  - 1. The schedule shall be submitted as an action submittal using the "Submittal" feature in the Architect's project management program (Newforma Info Exchange).
- D. Prepare schedule on basis of each specification section.
- E. For products specified under reference standards, include with listing of each product:
  - 1. Name and address of manufacturer.
  - 2. Trade name.
  - 3. Model or catalog designation.
  - 4. Manufacturer's data, including performance and test data, reference standards.

1.3 SHOP DRAWINGS

- A. Prepared by a qualified detailer. Prepare project-specific information, drawn accurately to scale. Do not base shop drawings on reproductions of the contract documents or standard printed data. Include supplier's / detailer's / manufacturer's title block.
- B. Identify details by reference to sheet and detail numbers shown on Contract Documents.
- C. Present in a clear and thorough manner original drawings which illustrate the portion of the work showing fabrication, layout, setting, or erection details, prepared by a qualified detailer. Title each drawing with Project and Contract name and number; identify each element of drawings by reference to sheet number and detail, schedule, or room number of Contract Documents.

#### 1.4 PRODUCT DATA

- A. Manufacturer's standard schematic drawings and diagrams:
  - 1. Modify drawings to delete information which is not applicable to the work.
  - 2. Supplement standard information to provide additional information specifically applicable to the work.
- B. Manufacturer's catalog sheets, brochures, diagrams, schedules, performance charts, illustrations and other standard descriptive data:
  - 1. Clearly mark each copy to identify pertinent materials, products or models.
  - 2. Show dimensions and clearances required.
  - 3. Show performance characteristics and capacities.
  - 4. Show wiring or piping diagrams and controls.
- C. Submit only pages which are pertinent; mark each copy of standard printed data to identify pertinent products, referenced to specification section and Article number. Show reference standards, performance characteristics and capacities; wiring and piping diagrams and controls; component parts; finishes; dimensions; and required clearances.
- D. Modify manufacturer's standard schematic drawings and diagrams to supplement standard information and to provide information specifically applicable to the work. Delete information not applicable.

#### 1.5 SAMPLES

- A. Office samples shall be of sufficient size and quantity to clearly illustrate:
  - 1. Functional characteristics of product or material, with integrally related parts and attachment devices.
  - 2. Full range of color samples.
- B. Color Selections & Samples: Provide two (2) samples for the Architect's review and record. Provide cut sheet when applicable.
  - 1. Samples for Initial Selection: Submit one (1) full set of available choices where color, pattern, texture, or similar characteristics are required to be selected from manufacturer's product line. Architect will return submittal with options selected. In addition to the physical samples required above, submit a .pdf file of photographs of the actual color samples and identifying labels.
  - 2. Samples for Verification: Submit two (2) full-size units or Sample of size indicated, prepared from same material to be used for the Work, cured and finished in manner specified, and physically identical with material or product proposed for use, and that show full range of color and texture variations expected. Samples include, but are not limited to, the following: partial sections of manufactured or fabricated components; small cuts or containers of materials; complete units of repetitively used materials; swatches showing color, texture, and pattern; color range sets; and components used for independent testing and inspection. In addition to the physical samples required above, submit a .pdf file of photographs of the actual color samples and identifying labels. Architect will retain physical samples.
    - a. After Color Board has been delivered to the project site, submit one (1) sample for verification in lieu of two (2). One will be retained by Contractor for mounting on Color Board after approval by Architect.
- C. Field Samples and Mock-ups:
  - 1. Erect at project site at location acceptable to Architect.
  - 2. Construct each sample or mock-up complete, including work of all trades required in finish work.
  - 3. Install each sample complete and finished. Acceptable finishes in place may be retained in completed work.
- D. Digital Samples: In addition to the physical Office Samples and Field Samples/Mock-ups, submit a .pdf file of photographs of the actual samples/mock-ups using the "Submittal" feature in the Architect's project management program (Newforma Info Exchange).
- E. Submit full range of manufacturer's standard finishes except when more restrictive requirements are specified, indicating colors, textures and patterns, for Architect selection.
- F. Submit samples to illustrate functional characteristics of products, including parts and attachments.
- G. Approved samples which may be used in the work are indicated in the specification section.
- H. Label each sample with identification required for transmittal letter.

## 1.6 CONTRACTOR REVIEW

- A. Review submittals prior to transmittal; determine and verify field measurements, field construction criteria, quantities and details, manufacturer's catalog numbers and conformance of submittal with requirements of Contract Documents.
- B. Coordinate submittals with requirements of work and of Contract Documents.
- C. Sign or initial in a rubber-stamped review block format, each sheet of shop drawings and product data and each sample label to certify compliance with requirements of Contract Documents. Notify Architect in writing at time of submittal, of any deviations from requirements of Contract Documents.
- D. Do not fabricate products or begin work which requires submittals until return of submittal with Architect acceptance.
- E. Contractor's responsibility for errors and omissions in submittals is not relieved by Architect's review of submittals.
- F. Contractor's responsibility for deviations in submittals from requirements of contract documents is not relieved by Architect's review of submittals, unless Architect gives specific written acceptance of deviations. Architect will review submittals for general conformance to design intent only.

## 1.7 SUBMISSION REQUIREMENTS

- A. Submit Shop Drawings and Product Data as soon as practicable after award of contract but not later than 30 calendar days before dates reviewed submittals will be needed.
- B. Processing Time: Allow time for submittal review, including time for resubmittals, as follows. Time for review shall commence on Architect's receipt of submittal. No extension of the Contract Time will be authorized because of failure to transmit submittals enough in advance of the Work to permit processing, including resubmittals.
  - 1. Initial Review: Allow 10 working days for initial review of each submittal. Allow additional time if coordination with subsequent submittals is required. Architect will advise Contractor when a submittal being processed must be delayed for coordination.
  - 2. Resubmittal Review: Allow 10 working days for review of each resubmittal.
- C. Submit all office samples as soon as practicable but not later than **60 or 20** days after award of contract in order to facilitate color selections and coordination of the various materials. Final color selections and release of shop drawings contingent upon color selection will not be made until all office samples have been submitted, coordinated and approved.
  - 1. Color Board shall be delivered to the project site after 60 days. Contractor is responsible for updating color board with samples submitted by Contractor and approved by Architect after 60 days.
- D. Digital Submittals: Submit to the Architect, or applicable consultant, shop drawings, product data, and samples required by specification sections. Do not submit illegible fax copies nor carbon copies of shop drawings and product data.
  - 1. The submittals shall be logged in by the General Contractor and tracked using the "Submittal" feature in the Architect's project management program (Newforma Info Exchange). All submittals shall be submitted in .pdf format.
    - a. Submittals 8-1/2" x 11" and/or 11" x 17" and greater than 50 pages: Provide digital copy for the Architect's records.
    - b. Large Format Drawings (larger than 11 x 17): Provide digital copy for the Architect's records.
  - 2. Architect will indicate, via markup on each digital submittal, the appropriate action, then return submittal via the Architect's project management program (Newforma Project Center).
  - 3. Submittals to be reviewed by consultants shall be submitted to the Architect via Architect's project management program with a copy simultaneously sent to the applicable consultant. Submittals will be reviewed by the consultant and then delivered/transmitted to the Architect via the Architect's project management program (Newforma Info Exchange) for his review prior to transmitting them to the contractor. Submittals to be reviewed by the testing lab shall be handled in the same manner.
  - 4. Color Selections & Samples: Reference "Samples" Article within this specification section.

- E. Contractor is responsible for the costs associated with the digital delivery of all submittals, and hard copy where required, to the Architect and the Architect's consultants and retrieval of all submittals from the Architect, when necessary.
- F. Accompany submittals with transmittal letter containing:
  - 1. Date.
  - 2. Project title and number.
  - 3. Contractor's name and address.
  - 4. Identification of specification section and submittal numbers.
  - 5. The number of each shop drawing, product data and sample submitted.
  - 6. Notification of deviations from contract documents.
  - 7. Other pertinent data.
- G. Submittals shall include:
  - 1. Date and revision dates.
  - 2. Project title and number.
  - 3. Names of Architect, Contractor, subcontractor, supplier and manufacturer.
  - 4. Identification of product or material and specification section number.
  - 5. Relation to adjacent structure, materials or other critical features.
  - 6. Field dimensions, clearly identified as such.
  - 7. Applicable reference standards.
  - 8. A blank space 3" x 4" for Architect's stamp.
  - 9. Identification of deviations from contract documents.
  - 10. Contractor's stamp, initialed or signed, certifying to review of submittal, verification of field measurements, compliance with contract documents and coordination with requirements of the work. Note: Absence of the Contractor's stamp shall constitute grounds for rejection of the submittal until such time as the submittal has been processed in accordance with this requirement.
  - 11. Other pertinent data required by specifications.

#### 1.8 RE-SUBMISSION REQUIREMENTS

- A. Re-submission: For submittals not approved by Architect, make corrections and changes in submittals required by Architect and re-submit until approved.
  - 1. The digital re-submission shall be logged in using the "My Expected Submittals" feature in the Architect's project management program (Newforma Info Exchange).
- B. Shop Drawings:
  - 1. Revise initial drawings and re-submit as specified for initial submittal.
  - 2. Indicate on drawings any changes which have been made, other than those requested by Architect.
- C. Product Data and Samples: Submit new data and samples as specified for initial submittal.

#### 1.9 DISTRIBUTION OF SUBMITTALS AFTER REVIEW

- A. Distribute reviewed submittal of shop drawings and product data which carry Architect's stamp as follows: Contractor's file, project site file, record documents file, other prime contractors.
- B. Keep and maintain a full set of submittals throughout the construction phase to be submitted to the Architect with other Close-out documents for delivery to the Owner for his permanent record. Set of submittals shall be delivered to the Architect in cardboard file boxes with string and button type closures. Organize submittals by CSI divisions, utilizing neatly labeled pressboard dividers to separate the sections. Neatly label short end of box with project name, contents and duration of construction.

#### PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

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SECTION 01 35 00

ALTERATION PROJECT PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
1. General: The procedures and administrative requirements of this section apply to all of the sections of the specification which are involved in alterations to the existing building.
  2. Extent Notes: Cut into or partially remove portions of the existing buildings as necessary to make way for new construction. Include such work as:
    - a. Cutting, moving, or removal of items shown to be cut, moved, or removed.
    - b. Cutting, moving, or removal of items not shown to be cut, moved, or removed, but which must be cut, moved, or removed to allow the new work to proceed. Work or items which are to remain in the finished work shall be patched or reinstalled after their cutting, moving, or removal, and their joints and finishes made to match adjacent or similar work.
    - c. Removal of existing surface finishes as needed to install new work or finishes.
    - d. Removal of abandoned items and removal of items serving no useful purpose, such as abandoned piping.
    - e. Repair or removal of dangerous or unsanitary conditions resulting from alterations work.
- B. Related Requirements:
1. Section 01 11 00 - Summary of Work; Sequence of construction and instructions concerning asbestos.
  2. Section 01 50 00 - Temporary Facilities and Controls.
  3. Section 01 73 29 - Cutting and Patching.
  4. Section 01 74 13 - Progress Cleaning.
  5. Section 02 41 19 - Selective Structure Demolition.

1.2 SCHEDULING AND ACCESS

- A. Maintenance of Access and Operations: During period of construction, do not obstruct in any manner existing exit ways of Owner-occupied areas. Prior to removal of existing exit ways (stairs, corridors, doors) as part of new work, provide and maintain new exit ways so as to maintain same number of exit ways. Maintain existing fire doors in an operable condition.
- B. Maintenance of Existing Services:
1. Maintain environmental control in existing buildings, especially temperature, humidity and dust control.
  2. Provide temporary lines and connections as required to maintain existing mechanical and electrical services in buildings.
  3. Notify Owner a minimum of seven days prior to each required interruption of mechanical or electrical services in buildings. Such interruptions shall be only at such times and for lengths of time as approved by the Owner. In no event shall interruption occur without prior approval of the Owner.

PART 2 - PRODUCTS

2.1 PRODUCTS FOR PATCHING EXTENDING WORK

- A. New Materials: As specified in individual sections.
- B. Match existing products and work for patching and extending work.
- C. Determine type and quality of existing products by inspection and any necessary testing, and workmanship by use of existing as a standard. Presence of a product, finish, or type of work, requires that patching, extending, or matching shall be performed as necessary to make work complete and consistent with existing quality or specifications if more stringent.

PART 3 - EXECUTION

3.1 INSPECTION

- A. Verify that demolition is complete, and areas are ready for installation of new work.

- B. Beginning of restoration work means acceptance of existing conditions.

### 3.2 PREPARATION

- A. Cut, move, or remove items as necessary for access to alterations and renovations work; replace and restore at completion.
- B. Remove unsuitable material not marked for salvage, such as rotted wood, rusted materials, and deteriorated masonry and concrete; replace materials as specified for finished work.
- C. Remove debris and abandoned items from area and from concealed spaces.
- D. Prepare surfaces and remove surface finishes to provide for proper installation of new work and new finishes.
- E. Close openings in exterior surfaces to protect existing work and salvage items from weather and extremes of temperature and humidity. Insulate ductwork and piping to prevent condensation in exposed areas.

### 3.3 INSTALLATION

- A. Coordinate work of alterations and renovations to expedite completion.
- B. Project shall be complete.
- C. Remove, cut, and patch work in a manner to minimize damage and to provide means of restoring products and finishes to specified condition.
- D. Refinish visible existing surfaces to remain in renovated rooms and spaces, to specified condition for each material, with a neat transition to adjacent new finishes.
- E. Install products as specified in individual sections.

### 3.4 ALTERATIONS, CUTTING, AND PROTECTION

- A. Extent:
  - 1. Cutting and removal work shall be performed so as not to cut or remove more than is necessary and so as not to damage adjacent work.
  - 2. Conduct work in such a manner as to minimize noise and to minimize accumulation and spread of dirt and dust.
  - 3. Perform cutting for ductwork and other rectangular openings with carborundum saw with approved dust arrestor.
  - 4. Drill holes for conduit and piping using core drills.
- B. Shoring, Bracing, and Capping: Provide shores, needling and bracing as needed to keep buildings structurally secure and free of deflection in all its parts, and as needed for installation of new structural members.
- C. Responsibility and Assignment to Trades:
  - 1. Contractor shall assign the work of moving, removal, cutting, patching and repair to trades under his supervision so as to cause the least damage to each type of work encountered, and so as to return the buildings as much as possible to the appearance of new work.
  - 2. Patching of finish materials shall be assigned to mechanics skilled in the work of the finish trade involved.
- D. Protection:
  - 1. Protect remaining finishes, equipment, and adjacent work from damage caused by cutting, moving, removal and patching operations. Protect surfaces which will remain a part of the finished work.
  - 2. Protect existing facilities and features, within designated construction limits and along corridor access route to construction area.

3. Cover existing wall and floor finishes in work areas, in adjacent areas, and along corridor access route to prevent damage from product delivery and construction operations. Use reinforced sheeting, listed by Underwriters' Laboratories, Inc., as having a flame spread rating of less than 25 and smoke developed rating of less than 50. Apply double thickness of sheeting, fastened to one side with no-tear fasteners. Tape joints continuously.
  4. During demolition, cutting and construction, provide positive dust control by wetting dust debris and by completely sealing openings to Owner-occupied areas with temporary partitions, so as to prevent spread of dust and dirt to adjacent areas.
  5. After materials, equipment and machinery are installed, properly protect work until final acceptance.
  6. Damage resulting from construction operations shall be repaired by the Contractor without cost to the Owner.
  7. During non-working hours, provide continuous security at openings cut into existing exterior walls and roofs.
- E. Debris:
1. Remove debris promptly from the site each day. Removed material, except that listed or marked by the Architect for retention, becomes property of the Contractor. Load removed material directly on trucks for removal from site. Do not allow debris to enter sewers.
  2. Do not let piled material endanger structure.
  3. During cutting and coring operations, use metal lined wood box secured tight against surface, to catch falling debris and water.

### 3.5 PATCHING, EXTENDING, AND MATCHING

- A. Skill: Patch and extend existing work using skilled mechanics who are capable of matching the existing quality of workmanship. The quality of patched or extended work shall not be less than that specified in the sections of the product and execution specifications which follow these general requirements.
- B. Patching:
1. In areas where any portion of an existing finishing surface is damaged, lifted, stained, or otherwise made or found to be imperfect, patch or replace the imperfect portion of the surface with matching material.
  2. Provide adequate support or substrate for patching of finishes.
  3. If the imperfect surface was a painted or coated one, re-paint or re-coat the patched portion in such a way that uniform color and texture over the entire surface results.
  4. If the surrounding surface cannot be matched, re-paint or re-coat the entire surface.
- C. Quality:
1. In the sections of the product and execution of specifications which follow these general requirements, no concerted attempt has been made to describe each of the various existing products that must be used to patch, match, extend or replace existing work. Obtain such products in time to complete the work on schedule. Such products shall be provided in quality which is in no way inferior to the existing products.
  2. The quality of the products that exist in the buildings, as apparent during pre-bid site visits, shall serve as the specification requirement for strength, appearance, and other characteristics.
- D. Transitions:
1. Where new work abuts or finishes flush with existing work, make the transition as smooth and workmanlike as possible. Patched work shall match existing adjacent work in texture and appearance so as to make the patch or transition invisible to the eye.
  2. Where masonry, or other finished surface is cut in such a way that a smooth transition with new work is not possible, terminate the existing surface in a neat fashion along a straight line at a natural line of division and provide trim appropriate to the finished surface.
  3. Where two or more spaces are indicated to become one space, rework floors and ceilings so that horizontal planes, without breaks, steps or bulkheads result.
  4. In cases of extreme change of level (3" or more), obtain instructions from Architect as to method of making transition. Either stepping, bulkheading, encasement, ramping, sloping or change of transition line shall be employed, or a combination of these, as directed in each case by the Architect.
- E. Matching:
1. Restore existing work that is damaged during construction to a condition equal to its condition at the time of the start of the work.
  2. At locations in existing areas where partitions are removed, patch the floors, walls, and ceilings with finish materials to match adjacent finishes.

3. Finish patches to produce uniform finish and texture over entire area. When finish cannot be matched, refinish entire surface to nearest intersections.

### 3.6 REPAIR

- A. Replace work damaged in the course of alterations, except at areas approved by the Architect for repair.
- B. Where full removal of extensive amounts of almost-suitable work would be needed to replace damaged portions, then filling, spackling, straightening, and similar repair techniques, followed by full painting or other finishing, will be permitted.
- C. If the repaired work is not brought up to the standard for new work, the Architect will direct that it be cut out and replaced with new work.

### 3.7 FIRESTOPPING

- A. Where existing partitions or walls are penetrated by new work, seal around penetrating conduit or sleeve with approved and listed safing.

### 3.8 CLEANING

- A. In addition to cleaning specified in SECTION 01 74 13 - PROGRESS CLEANING, clean Owner-occupied areas of work daily.

END OF SECTION

SECTION 01 41 00

REGULATORY REQUIREMENTS

PART 1 - GENERAL

1.1 CODES

- A. Where references are made on drawings or specifications to codes, they shall be considered an integral part of the contract documents as minimum standards. Nothing contained in the contract documents shall be so construed as to be in conflict with any law, bylaw or regulation of the municipal, state, federal or other authorities having jurisdiction.
- B. Perform work in compliance with all City of Lewisville ordinances and requirements.

1.2 GOVERNING LAWS

- A. Additional information with legal implications regarding applicable governing laws and jurisdictions can be found in the conditions of the contract.

1.3 PERMITTING

- A. Contractor shall, without additional expense to Owner, obtain necessary licenses and permits, and be responsible for complying with any federal, state, county and municipal laws, codes and regulations applicable to the performance of the work, including, but not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

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SECTION 01 42 00

REFERENCES

PART 1 - GENERAL

1.1 INDUSTRY STANDARDS

- A. Applicability of Standards: Unless the contract documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the contract documents to the extent referenced. Such standards are made a part of the contract documents by reference.
- B. Publication Dates: Comply with standards in effect as of date of the contract documents.
- C. Copies of Standards: Each entity engaged in construction on project must be familiar with industry standards applicable to its construction activity. Copies of applicable standards are not bound with the contract documents.
1. Where copies of standards are needed to perform a required construction activity, obtain copies directly from publication source.

- D. Abbreviations and Acronyms for Standards and Regulations: Where abbreviations and acronyms are used in specifications or other contract documents, they shall mean the recognized name of the standards and regulations in the following list. Names, telephone numbers, and web-site addresses are subject to change and are believed to be accurate and up-to-date as of the date of the contract documents.

|         |   |                              |
|---------|---|------------------------------|
| ADAAG   | Americans with Disabilities Act (ADA)<br>Accessibility Guidelines for Buildings and Facilities<br>Available from Access Board<br><a href="http://www.access-board.gov">www.access-board.gov</a> | 800.872.2253<br>202.272.0080 |
| CRD     | Handbook for Concrete and Cement<br>Available from Army Corps of Engineers Waterway<br>Experiment Station<br><a href="http://www.erdc.usace.army.mil/">http://www.erdc.usace.army.mil/</a>      | 601.634.2355                 |
| DOD     | Department of Defense Military Specifications and Standards<br>Available from Department of Defense Single Stock Point<br><a href="http://www.dodssp.daps.dla.mil">www.dodssp.daps.dla.mil</a>  | 215.697.6257                 |
| FED-STD | Federal Standard<br>(See FS)  |                              |
| FS      | Federal Specification<br>Available from Department of Defense Single Stock Point<br><a href="http://www.dodssp.daps.dla.mil">www.dodssp.daps.dla.mil</a>  | 215.697.6257                 |
|         | Available from General Services Administration<br><a href="http://www.gsa.gov">www.gsa.gov</a>  | 202.501.1021                 |
|         | Available from National Institute of Building Sciences<br><a href="http://www.nibs.org">www.nibs.org</a>  | 202.289.7800                 |
| ICC-ES  | ICC Evaluation Services, Inc.<br><a href="http://www.icc-es.org">www.icc-es.org</a>   | 800.423.6587<br>562.699.0543 |
| MIL     | See MILSPEC   |                              |
| MIL-STD | See MILSPEC   |                              |
| MILSPEC | Military Specification and Standards<br>Available from Department of Defense Single Stock Point<br><a href="http://www.dodssp.daps.dla.mil">www.dodssp.daps.dla.mil</a>                         | 215.697.6257                 |

|     |   |              |
|-----|---|--------------|
| TAS | Texas Accessibility Standards<br>P.O. Box 12157<br>Austin, TX 78711<br><a href="http://www.license.state.tx.us/ab/abtas.htm">www.license.state.tx.us/ab/abtas.htm</a> | 512.463.3211 |
|-----|---|--------------|

## 1.2 ABBREVIATIONS AND ACRONYMS

- A. Industry Organizations: Where abbreviations and acronyms are used in specifications or other contract documents, they shall mean the recognized name of the entities in the following list. Names, telephone numbers, and web-site addresses are subject to change and are believed to be accurate and up-to-date as of the date of the contract documents.

|        |   |                              |
|--------|---|------------------------------|
| AA     | Aluminum Association, Inc. (The)<br><a href="http://www.aluminum.org">www.aluminum.org</a>  | 703.358.2960                 |
| AAMA   | American Architectural Manufacturers Association<br><a href="http://www.aamanet.org">www.aamanet.org</a>  | 847.303.5664                 |
| AASHTO | American Association of State Highway<br>and Transportation Officials<br><a href="http://www.transportation.org">www.transportation.org</a>                           | 202.624.5800                 |
| ACI    | ACI International<br>(American Concrete Institute)<br><a href="http://www.aci-int.org">www.aci-int.org</a> ( <a href="http://www.concrete.org">www.concrete.org</a> ) | 248.848.3700                 |
| AGA    | American Gas Association<br><a href="http://www.aga.org">www.aga.org</a>  | 202.824.7000                 |
| AISC   | American Institute of Steel Construction<br><a href="http://www.aisc.org">www.aisc.org</a>  | 800.644.2400<br>312.670.2400 |
| AISI   | American Iron and Steel Institute<br><a href="http://www.steel.org">www.steel.org</a>   | 202.452.7100                 |
| ANSI   | American National Standards Institute<br><a href="http://www.ansi.org">www.ansi.org</a>   | 202.293.8020                 |
| APA    | APA-The Engineered Wood Association<br><a href="http://www.apawood.org">www.apawood.org</a>   | 253.565.6600                 |
| ASHRAE | American Society of Heating, Refrigerating and<br>Air Conditioning Engineers<br><a href="http://www.ashrae.org">www.ashrae.org</a>                                    | 404.636.8400                 |
| ASTM   | ASTM International<br>(American Society for Testing and Materials International)<br><a href="http://www.astm.org">www.astm.org</a>                                    | 610.832.9585                 |
| AWI    | Architectural Woodwork Institute<br><a href="http://www.awinet.org">www.awinet.org</a>  | 571.323.3636                 |
| AWPA   | American Wood Protection Association<br><a href="http://www.awpa.com">www.awpa.com</a>  | 205.733.4077                 |
| AWS    | American Welding Society<br><a href="http://www.aws.org">www.aws.org</a>  | 800.443.9353<br>305.443.9353 |
| BHMA   | Builders Hardware Manufacturers Association<br><a href="http://www.buildershardware.com">www.buildershardware.com</a>   | 212.297.2122                 |
| BIA    | Brick Industry Association (The)<br><a href="http://www.gobrick.com">www.gobrick.com</a>  | 703.620.0010                 |

|       |   |              |
|-------|---|--------------|
| CISCA | Ceilings & Interior Systems Construction Association<br>www.cisca.org         | 630.584.1919 |
| CLFMI | Chain Link Fence Manufacturers Institute<br>www.chainlinkinfo.org             | 301.596.2583 |
| CRSI  | Concrete Reinforcing Steel Institute<br>www.crsi.org                          | 847.517.1200 |
| DHI   | Door and Hardware Institute<br>www.dhi.org                                    | 703.222.2010 |
| FM    | Factory Mutual System<br>(See FMG)  |              |
| FMG   | FM Global<br>(Formerly: FM - Factory Mutual System)<br>www.fmglobal.com       | 401.275.3000 |
| GA    | Gypsum Association<br>www.gypsum.org  | 301.277.8686 |
| GANA  | Glass Association of North America<br>www.glasswebsite.com                    | 785.271.0208 |
| HMMA  | Hollow Metal Manufacturers Association<br>(See NAAMM)                         |              |
| HPVA  | Hardwood Plywood & Veneer Association<br>www.hpva.org                         | 703.435.2900 |
| IGCC  | Insulating Glass Certification Council<br>www.igcc.org                        | 315.646.2234 |
| IGMA  | Insulating Glass Manufacturers Alliance (The)<br>www.igmaonline.org           | 613.233.1510 |
| MBMA  | Metal Building Manufacturers Association<br>www.mbma.com                      | 216.241.7333 |
| MFMA  | Maple Flooring Manufacturers Association, Inc.<br>www.maplefloor.org          | 888.480.9138 |
| MFMA  | Metal Framing Manufacturers Association<br>www.metalframingmfg.org            | 312.644.6610 |
| MIA   | Marble Institute of America<br>www.marble-institute.com                       | 440.250.9222 |
| NAAMM | National Association of Architectural<br>Metal Manufacturers<br>www.naamm.org | 630.942.6591 |
| NCMA  | National Concrete Masonry Association<br>www.ncma.org                         | 703.713.1900 |
| NeLMA | Northeastern Lumber Manufacturers' Association<br>www.nelma.org               | 207.829.6901 |
| NEMA  | National Electrical Manufacturers Association<br>www.nema.org                 | 703.841.3200 |

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|        |   |                              |
|--------|---|------------------------------|
| NFPA   | NFPA (National Fire Protection Association)<br>www.nfpa.org   | 800.344-3555<br>617.770-3000 |
| NFRC   | National Fenestration Rating Council<br>www.nfrc.org  | 301.589.1776                 |
| NHLA   | National Hardwood Lumber Association<br>www.nhla.com  | 800.933.0318<br>901.377.1818 |
| NLGA   | National Lumber Grades Authority<br>www.nlga.org  | 604.524.2393                 |
| NOFMA  | National Oak Flooring Manufacturers Association<br>(The Wood Flooring Manufacturers Association)<br>www.nofma.org | 901.526.5016                 |
| NRCA   | National Roofing Contractors Association<br>www.nrca.net  | 800.323.9545<br>847.299.9070 |
| NTMA   | National Terrazzo & Mosaic Association, Inc.<br>www.ntma.com  | 800.323.9736<br>540.751.0930 |
| NWWDA  | National Wood Window and Door Association<br>(See WDMA)   |                              |
| PCI    | Precast/Prestressed Concrete Institute<br>www.pci.org   | 312.786.0300                 |
| PDCA   | Painting and Decorating Contractors of America<br>www.pdca.org  | 800.332.7322<br>314.514.7322 |
| SDI    | Steel Deck Institute<br>www.sdi.org   | 847.458.4647                 |
| SDI    | Steel Door Institute<br>www.steeldoor.org   | 440.899.0010                 |
| SEFA   | Scientific Equipment and Furniture Association<br>www.sefalabs.com  | 516.294.5424                 |
| SGCC   | Safety Glazing Certification Council<br>www.sgcc.org  | 315.646.2234                 |
| SIGMA  | Sealed Insulating Glass Manufacturers Association<br>(See IGMA)   |                              |
| SJI    | Steel Joist Institute<br>www.steeljoist.org   | 843.626.1995                 |
| SMACNA | Sheet Metal and Air Conditioning<br>Contractors' National Association<br>www.smacna.org                           | 703.803.2980                 |
| SPIB   | Southern Pine Inspection Bureau (The)<br>www.spib.org   | 850.434.2611                 |
| TCNA   | Tile Council of America, Inc.<br>www.tileusa.com  | 864.646.8453                 |
| TPI    | Truss Plate Institute, Inc.<br>www.tpinst.org   | 703.683.1010                 |

|       |  |                              |
|-------|--|------------------------------|
| UL    | Underwriters Laboratories Inc.<br>www.ul.com   | 800.285.4476<br>847.272.8800 |
| USGBC | U.S. Green Building Council<br>www.usgbc.org   | 800.795.1747<br>202.828.7422 |
| WCLIB | West Coast Lumber Inspection Bureau<br>www.wclib.org   | 800.283.1486<br>503.639.0651 |
| WDMA  | Window & Door Manufacturers Association<br>(Formerly: NWWA - National Wood Window<br>and Door Association)<br>www.wdma.com | 800.223.2301<br>312.321.6802 |
| WI    | Woodwork Institute<br>www.woodworkinstitute.com  | 916.372.9943                 |
| WWPA  | Western Wood Products Association<br>www.wwpa.org  | 503.224.3930                 |

B. Code Agencies: Where abbreviations and acronyms are used in specifications or other contract documents, they shall mean the recognized name of the entities in the following list. Names, telephone numbers, and web-site addresses are subject to change and are believed to be accurate and up-to-date as of the date of the contract documents.

|       |   |                              |
|-------|---|------------------------------|
| BOCA  | BOCA International, Inc.<br>(See ICC)   |                              |
| CABO  | Council of American Building Officials<br>(See ICC)   |                              |
| IAPMO | International Association of Plumbing<br>and Mechanical Officials<br>www.iapmo.org                            | 909.472.4100                 |
| ICBO  | International Conference of Building Officials<br>(See ICC)   |                              |
| ICC   | International Code Council<br>(Formerly: CABO - Council of American<br>Building Officials)<br>www.iccsafe.org | 888.422.7233<br>703.931.4533 |
| SBCCI | Southern Building Code Congress International, Inc.<br>(See ICC)  |                              |

C. Federal Government Agencies: Where abbreviations and acronyms are used in specifications or other contract documents, they shall mean the recognized name of the entities in the following list. Names, telephone numbers, and web-site addresses are subject to change and are believed to be accurate and up-to-date as of the date of the contract documents.

|      |   |                              |
|------|---|------------------------------|
| CE   | Army Corps of Engineers<br>www.usace.army.mil               |                              |
| CPSC | Consumer Product Safety Commission<br>www.cpsc.gov          | 800.638.2772<br>301.504.6816 |
| EPA  | Environmental Protection Agency<br>www.epa.gov              | 202.272.0167                 |
| OSHA | Occupational Safety & Health Administration<br>www.osha.gov | 800.321.6742<br>202.693.1999 |

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Lewisville, Texas

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

SECTION 01 42 16

DEFINITIONS

PART 1 - GENERAL

1.1 DEFINITIONS

- A. "Furnish": Supply and deliver to project site, ready for unloading, unpacking, assembly, installation, and similar operations.
- B. "Install": Operations at project site including unloading, temporarily storing, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.
- C. "Product": Materials, systems and equipment.
- D. "Project Manual": Volume assembled for the Work which may include the bidding requirements, sample forms, conditions of the contract, and specifications.
- E. "Provide": Furnish and install, complete and ready for the intended use.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

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SECTION 01 45 00

QUALITY CONTROL

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
  - 1. Quality control of products and workmanship.
  - 2. Manufacturer's instructions.
  - 3. Manufacturer's certificates and field services.
- B. Related Requirements:
  - 1. Section 01 33 23 - Shop Drawings, Product Data, and Samples: Field samples. Submittal of manufacturer's instructions.
  - 2. Section 01 42 00 - References.
  - 3. Section 01 62 00 - Product Options.

1.2 DESCRIPTION

- A. Maintain quality control over supervision, subcontractors, suppliers, manufacturers, products, services, workmanship, and site conditions, to produce work in accordance with contract documents.

1.3 WORKMANSHIP

- A. Comply with industry standards of the region except when more restrictive tolerances or specified requirements indicate more rigid standards or more precise workmanship.
- B. Provide suitably qualified personnel to produce work of specified quality.
- C. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, and racking.
- D. Provide finishes to match approved samples.

1.4 MANUFACTURER'S INSTRUCTIONS

- A. Require compliance with instructions in full detail, including each step in sequence.
- B. Should instruction conflict with contract documents, request clarification from Architect/Engineer before proceeding.

1.5 MANUFACTURER'S CERTIFICATES

- A. When required in individual Specifications section, submit manufacturer's certificate, in duplicate, certifying that products meet or exceed specified requirements, executed by responsible officer.

1.6 MANUFACTURER'S FIELD SERVICES

- A. When required in individual Specifications section, have manufacturer or his authorized representative provide qualified representative to observe field conditions, conditions of surfaces and installation, quality of workmanship, start-up of equipment test, adjust, and balance of equipment as applicable, and to make written report of observations and recommendations to Architect.
- B. Individuals to report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.
- C. Submit report in duplicate within 30 days of observation to Architect/Engineer for review.

1.7 FIELD SAMPLES

- A. Install field samples at the site as required by individual specification sections for review.
- B. Acceptable samples represent a quality level for the work.
- C. Where field sample is specified in individual sections to be removed, clear area after field sample has been accepted by Architect/Engineer.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

SECTION 01 50 00

TEMPORARY FACILITIES AND CONTROLS

PART 1 - GENERAL

1.1 GENERAL

- A. Provide temporary facilities and controls needed for the work including, but not limited to those described in the Articles below.
- B. Maintain temporary facilities and controls as long as needed for safe and proper completion of the work.

1.2 ACCESS

- A. Provide adequate access to and temporary roads to the site of the building if required for the prosecution of the work.
- B. Provide and maintain access to fire hydrants, free of obstructions.

1.3 FIELD OFFICE

- A. Maintain temporary field office within existing building as coordinated with the Owner. Equip with adequate illumination; with smooth tables for perusal of drawings and specifications; and with metal legal size four-drawer filing cabinet. In addition to the above listed equipment, provide a space to accommodate the site meetings and have a layout/conference table at 28" height and chairs for 12 people. Upon completion of the project, remove offices from the premises.

1.4 TELEPHONES AND ELECTRONIC COMMUNICATION SERVICE

- A. Provide telephones/mobile phones in the field office. Telephone shall be in operation from the commencement of work until the acceptance of the building. Contractor shall pay for installation, maintenance, and removal of telephones, lines and for all use charges.
- B. Electronic Communication Service: Provide a computer, printer, high-speed data connection, and internet service as required for the Contractor to maintain internet access and e-mail correspondence.
  - 1. Contractor shall pay for installation, maintenance, and removal of high-speed data connection and for all use charges.
  - 2. The Architect's project management system is Newforma Info Exchange, which can be accessed by logging in at the following websites:  
<https://infoexchange.vlkarchitects.com/UserWeb/Login/Login.aspx?v=0> OR [www.vlkarchitects.com](http://www.vlkarchitects.com)  
Contractor shall utilize this system for all formal and informal correspondence with the Architect and Architect's Consultants, including E-Mails, Requests for Information, Proposals, Submittals, Submittal Transmittals, Meeting Minutes (for regularly scheduled meetings), and Warranty Responses (if warranty items are submitted in the system). In addition, Subcontractor Lists, Project Schedules, Schedule of Values, Pay Applications and other documents requiring submission shall be uploaded in pdf, Word, or Excel format by the Contractor to the appropriate location in Newforma Info Exchange.
  - 3. While the project management system is very user friendly and easy to learn, Architect will provide informal training for the Contractor as necessary to expedite the Contractor's familiarity with the program.

1.5 TEMPORARY ELECTRICAL SERVICE

- A. Existing Building Areas:
  - 1. At all locations, the Contractor may utilize building electrical power to the extent existing power may be suitable for construction operations. The contractor shall make all tie-ins and shall maintain utility service in all occupied areas. Damage, if any, caused by the Contractor use or tie-ins shall be immediately corrected by the Contractor to as-new conditions. Owner shall pay only the energy charges.
    - a. Provide GFCI adapters since existing circuits may not be protected.

2. The Contractor shall provide and maintain electrical power to points in the building convenient for and available to all trades, including mechanical and other subcontractors, so that power may be secured anywhere in the building with no more than a 100 ft. extension cord. Energy charges for power taken from existing building electrical system shall be paid by the Owner.

#### 1.6 TEMPORARY LIGHTING

- A. Provide and maintain temporary lighting inside the building for safe and adequate working conditions throughout all areas where work of any kind is being performed. Provide at least 1/2 watt of incandescent lighting for each square foot of space. Where practical, place temporary lights in the locations where the permanent lighting fixtures are to be installed.

#### 1.7 TEMPORARY HEAT

- A. Provide necessary heat during the course of construction, including equipment, fuel and attendance where required. Equipment for temporary heating shall be of a non-smudging type. The permanent heating system may be used for temporary heat, when installed. Upon completion and before acceptance of the building, Contractor shall repair all damage caused by such temporary use and shall clean all filters.
- B. When the outside temperature is below freezing, inside of the building shall be kept at or above 40°F. at all times. While painting and finishing are in progress, the temperature shall be kept at or above 60°F. Contractor shall make good all damage caused by insufficient heat.

#### 1.8 TEMPORARY VENTILATION

- A. Ventilate enclosed areas to assist cure of materials, to dissipate humidity, and to prevent accumulation of dust, fumes, vapors, or gases.
- B. Utilize existing ventilation equipment. Extend and supplement equipment with temporary fan units as required to maintain clean air for construction operations.

#### 1.9 TEMPORARY WATER SERVICE

- A. Provide and maintain a temporary water supply during the course of construction and pay meter installation or "tap" fee, if any. Include necessary piping and hose connections. Take precautions to avoid spattering and spilling water in the building. Monthly water usage will be paid by the Owner.

#### 1.10 TEMPORARY SANITARY FACILITIES

- A. Provide and maintain adequate sanitary toilet facilities on the project site. The toilet facilities shall meet the requirements of the public authorities having jurisdiction and their use strictly enforced. Sanitary sewer "tap" fee and monthly use fees, if any, shall be paid by Contractor if temporary facilities are connected to city sanitary sewer.

#### 1.11 REFUSE

- A. The Contractor shall provide refuse removal service at all times.

#### 1.12 PROTECTIVE FACILITIES

- A. Provide and maintain temporary guardrails, handrails and covers for floor, roof and wall openings, vertical shafts and stairways. If movement of the protective facilities is required by a subcontractor to perform his work, it will be the responsibility of that subcontractor to give prior notification to the Contractor and to replace the protective facilities in a satisfactory manner.
- B. Provide and maintain, as per City of Lewisville requirements, fire lane(s) and other required fire protection at the appropriate time and sequence of construction.

#### 1.13 BARRICADES

- A. Provide and maintain lighted barricades and fences for the public protection in accordance with requirements of the local city ordinances.

#### 1.14 TEMPORARY FIRE PROTECTION

- A. Contractor shall provide adequate fire extinguishers on the premises during the course of construction, of the type and size recommended to control fires, which may result from the particular work being performed in accordance with the local fire marshal and fire codes.
- B. Provide supervision of welding operations, combustion type temporary heating units, and similar sources of ignition for possible fires.
  - 1. Keep work area free of combustible material.
  - 2. A fire watch consisting of at least one man furnished by Contractor with a fire extinguisher in hand and with no other assigned duties, shall be posted to stand by and observe for potential hazards while welding or cutting is being done. Equip fire watch with suitable personal eye protection and fire extinguishers.
  - 3. At completion of work operations, immediately inspect work and adjacent area for hazards. Re-inspect work for hazards at 1/2 hour and at one hour after completion of welding and cutting operations.
- C. No smoking shall be allowed within the building or on the site. Post NO SMOKING signs in areas where work is in progress.

#### 1.15 ENCLOSURES

- A. Provide temporary weathertight closures of openings in exterior surfaces to provide acceptable working conditions and protection for materials, to allow for temporary heating, and to prevent entry of unauthorized persons. Provide doors with self-closing hardware and locks.
- B. Provide temporary partitions and ceilings as required to separate work areas from Owner occupied areas, to prevent penetration of dust and moisture into Owner occupied areas, to prevent damage to existing areas and equipment. Construction: Framing and sheet materials with closed joints and sealed edges at intersections with existing surfaces; STC rating 35 in accordance with ASTM E 90; flame spread rating of 25 in accordance with ASTM E 84; paint surfaces exposed to view in Owner occupied areas.

#### 1.16 WATER CONTROL

- A. Protect site from puddling or running water.

#### 1.17 CLEANING DURING CONSTRUCTION

- A. Control accumulation of waste materials and rubbish; periodically dispose of off site.
- B. Clean interior areas prior to start of finish work, maintain areas free of dust and other contaminants during finishing operations.
- C. Refer to SECTION 01 74 13 - PROGRESS CLEANING for additional cleaning requirements.

#### 1.18 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

- A. Remove temporary materials, equipment, services, and construction prior to substantial completion inspection.
- B. Clean and repair damage caused by installation or use of temporary facilities. Remove underground installations to a depth of 2'; grade site as indicated. Restore existing facilities used during construction to specified, or to original, condition.

#### 1.19 PROJECT IDENTIFICATION SIGNS

- A. Furnish and erect a project sign, approximately 4' high x 8' long or 6' high x 6' long of 3/4" thick exterior grade plywood, in conformance with sign detail supplied by the Architect. Support on posts of framing of treated wood or steel.
- B. Erect sign within 30 days of start of construction and maintain in good condition until completion of project. Sign shall be located as directed by the Architect.

C. No other signs or advertising of any kind, except precautionary warning signs, will be permitted.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

SECTION 01 62 00

PRODUCT OPTIONS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Administrative and procedural requirements for product options and substitutions.
- B. Related Requirements:
  - 1. Section 01 31 00 - Project Management and Coordination: Coordination of construction.
  - 2. Section 01 33 23 - Shop Drawings, Product Data, and Samples: Product data submittals.
  - 3. Section 01 42 00 - References: Applicability of specified reference standards.
  - 4. Section 01 78 23 - Operation and Maintenance Data.
  - 5. Section 01 78 39 - Project Record Documents.

1.2 PRODUCT LIST

- A. Within 30 days after date of contract, submit to the Architect a list of products and materials which are proposed for substitution per SECTION 01 33 23 - SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES.

1.3 CONTRACTOR'S OPTIONS

- A. For products specified only by reference standards, select any product meeting standards, by any manufacturer.
- B. For products specified by naming several products or manufacturers, followed by the words "NO SUBSTITUTIONS", select one of the products/manufacturers named.
- C. For products specified by naming only one product and manufacturer, there is no option unless a substitution is approved as specified below.
- D. For products specified by naming only one product and manufacturer, followed by the words "NO SUBSTITUTIONS", there is no option.

1.4 SUBSTITUTIONS

- A. Requests for substitution to material, products, or equipment instead of those specified will be considered if received at least 10 days prior to the bid date. Substitution request received within 10 days of the bid date will be returned without review. Refer to Substitution Request (During the Bidding Phase) form attached to this section.
- B. Within 30 days after Notice to Proceed, Architect will consider additional formal requests from the Contractor for substitutions of products in place of those specified. Refer to Substitution Request (After the Bidding Phase) form attached to this section.
- C. Submit a separate request for each substitution on a copy of the "SUBSTITUTION REQUEST" form, attached to this section. Include in request:
  - 1. Complete data substantiating compliance of proposed substitution with contract documents.
  - 2. For products:
    - a. Product identification, including manufacturer's name and address.
    - b. Manufacturer's literature, including product description, performance and test data and reference standards.
    - c. Samples, if applicable.
    - d. Name and address of similar projects on which product was used and date of installation.
  - 3. For construction methods:
    - a. Detailed written descriptions of proposed method.
    - b. Complete drawings illustrating methods or revisions.
  - 4. Itemized Comparison of qualities of proposed substitution with product or method specified.
  - 5. Changes required in other elements of work because of substitution.
  - 6. Effect on construction schedule.

- D. Request for substitution constitutes a representation that General Contractor or Construction Manager:
  - 1. Has personally investigated proposed product or method and determined that it is equal to or superior in all respects to that specified.
  - 2. Will provide same warranties for substitution as for product or method specified.
  - 3. Will coordinate installation of accepted substitution into the work, making such changes as may be required for the work to be complete in all respects.
  - 4. Waives all claims for additional cost, under his responsibility and related to substitution, which subsequently become apparent.
  
- E. Substitutions will not be considered if:
  - 1. They are indicated or implied on shop drawings or product data submittals without formal request submitted in accordance with this section.
  - 2. Acceptance will require substantial revision of contract documents.
  
- F. If substitution is not approved or accepted, Contractor shall furnish specified product or method at no additional cost to the Owner.
  
- G. Acceptance of a proposed substitution prior to the bid date will be in the form of an addendum.

#### 1.5 SUBMITTAL PROCEDURES

- A. Submit request for substitution.
  
- B. Architect will review Contractor's requests for substitutions with reasonable promptness.
  
- C. For accepted products, submit shop drawings, product data, and samples under provisions of SECTION 01 33 23 - SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES.

#### PART 2 - PRODUCTS

Not used.

#### PART 3 - EXECUTION

Not used.

END OF SECTION

**SUBSTITUTION REQUEST**  
(During the Bidding Phase)  
(Submittal must be received 10 days prior to bid/proposal date)

---

Project: \_\_\_\_\_ Substitution Request Number: \_\_\_\_\_  
\_\_\_\_\_  
From: \_\_\_\_\_  
To: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
A/E Project Number: \_\_\_\_\_  
Re: \_\_\_\_\_ Contract For: \_\_\_\_\_

---

Specification Title: \_\_\_\_\_ Description: \_\_\_\_\_  
Section: \_\_\_\_\_ Page: \_\_\_\_\_ Article/Paragraph: \_\_\_\_\_

---

Proposed Substitution: \_\_\_\_\_  
Manufacturer: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Trade Name: \_\_\_\_\_ Model No.: \_\_\_\_\_

Attached data includes product description, specifications, drawings, custom color/pre-selected color availability, photographs, and performance and test data adequate for evaluation of the request; applicable portions of the data are clearly identified.

Attached data also includes a description of changes to the Contract Documents that the proposed substitution will require for its proper installation.

- The Undersigned certifies:
- Proposed substitution has been fully investigated and determined to be equal or superior in all respects to specified product.
  - Same warranty will be furnished for proposed substitution as for specified product.
  - Same maintenance service and source of replacement parts, as applicable, is available.
  - Proposed substitution will have no adverse effect on other trades and will not affect or delay progress schedule.
  - Proposed substitution does not affect dimensions and functional clearances.
  - Payment will be made for changes to building design, including A/E/ design, detailing, and construction costs caused by the substitution.

---

Submitted by: \_\_\_\_\_  
Signed by: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

- A/E REVIEW AND ACTION**
- Substitution approved - Submit bid/proposal based on accepted substitution.
- Substitution approved as noted - Submit bid/proposal based on accepted substitution - as noted.
- Substitution rejected - Submit bid/proposal for specified materials.
- Substitution Request received too late - Submit bid/proposal for specified materials.

---

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_

---

Supporting Data Attached:  Drawings  Product Data  Samples  Tests  Reports  \_\_\_\_\_

**SUBSTITUTION REQUEST**  
(After the Bidding Phase)  
(Submittal must be received not later than 30 days after Notice to Proceed)

---

Project: \_\_\_\_\_ Substitution Request Number: \_\_\_\_\_  
\_\_\_\_\_ From: \_\_\_\_\_  
To: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ A/E Project Number: \_\_\_\_\_  
Re: \_\_\_\_\_ Contract For: \_\_\_\_\_

---

Specification Title: \_\_\_\_\_ Description: \_\_\_\_\_  
Section No.: \_\_\_\_\_ Page: \_\_\_\_\_ Article/Paragraph: \_\_\_\_\_

---

Proposed Substitution: \_\_\_\_\_  
Manufacturer: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Trade Name: \_\_\_\_\_ Model No.: \_\_\_\_\_

History:  New product  2-5 years old  5-10 years old  More than 10 years old

Differences between proposed substitution and specified product: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For finish materials and pre-finished equipment, list the colors available for the specified item and the colors available for the proposed substitution.

Point-by-point comparative data attached - REQUIRED BY A/E

---

Reason for not providing specified item: \_\_\_\_\_  
\_\_\_\_\_

Similar Installation:

Project: \_\_\_\_\_ Architect: \_\_\_\_\_  
Address: \_\_\_\_\_ Owner: \_\_\_\_\_  
\_\_\_\_\_ Date Installed: \_\_\_\_\_

Proposed substitution affects other parts of Work:  No  Yes; explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Savings to Owner for accepting substitution: \_\_\_\_\_ (\$ \_\_\_\_\_).

Proposed substitution changes Contract Time:  No  Yes [Add] [Deduct] \_\_\_\_\_ days.

---

Supporting Data Attached:  Drawings  Product Data  Samples  Tests  Reports  \_\_\_\_\_

---

SUBSTITUTION REQUEST - Continued

The Undersigned certifies:

- Proposed substitution has been fully investigated and determined to be equal or superior in all respects to specified product.
- Same warranty will be furnished for proposed substitution as for specified product.
- Same maintenance service and source of replacement parts, as applicable, is available.
- Proposed substitution will have no adverse effect on other trades and will not affect or delay progress schedule.
- Cost data as stated above is complete. Claims for additional costs related to accepted substitution which may subsequently become apparent are to be waived.
- Proposed substitution does not affect dimensions and functional clearances.
- Payment will be made for changes to building design, including A/E design, detailing, and construction costs caused by the substitution.
- Coordination, installation, and changes in the Work as necessary for accepted substitution will be complete in all respects.

Submitted by: \_\_\_\_\_

Signed by: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Attachments: \_\_\_\_\_

A/E REVIEW AND ACTION

- Substitution approved - Make submittals in accordance with Section 01 33 23.
- Substitution approved as noted - Make submittals in accordance with Section 01 33 23.
- Substitution rejected - Use specified materials.
- Substitution Request received too late - Use specified materials.

Signed by: \_\_\_\_\_ Date \_\_\_\_\_

Additional Comments:  Contractor  Subcontractor  Supplier  Manufacturer  A/E  \_\_\_\_\_

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SECTION 01 65 00

PRODUCT DELIVERY REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Requirements Included:
  - 1. Packaging, Transportation.
  - 2. Delivery and Receiving.
  - 3. Product Handling.
  
- B. Related Requirements:
  - 1. SECTION 01 32 16 - Construction Progress Schedules.
  - 2. SECTION 01 33 23 - Shop Drawings, Product Data, And Samples: Manufacturers' Instructions.
  - 3. SECTION 01 66 00 - Product Storage and Handling Requirements.
  - 4. Individual Sections: Specific requirements for packaging, shipping and handling.

PART 2 - PRODUCTS

NOT USED.

PART 3 - EXECUTION

3.1 PACKAGING, TRANSPORTATION

- A. Require supplier to package products in boxes or crates for protection during shipment, handling and storage. Protect sensitive products against exposure to elements and moisture.
  
- B. Protect sensitive equipment and finishes against impact, abrasion and other damage.

3.2 DELIVERY AND RECEIVING

- A. Arrange deliveries of products in accordance with construction progress schedules. Allow time for inspection prior to installation.
  
- B. Coordinate deliveries to avoid conflict with work and conditions at site; limitations on storage space; availability of personnel and handling equipment; and Owner's use of premises.
  
- C. Deliver products in undamaged, dry condition, in original unopened containers or packaging with identifying labels intact and legible.
  
- D. Clearly mark partial deliveries of component parts of equipment to identify equipment and contents to permit easy accumulation of parts and to facilitate assembly.
  
- E. Immediately on delivery, inspect shipment to assure
  - 1. Product complies with requirements of contract documents and reviewed submittals.
  - 2. Quantities are correct.
  - 3. Accessories, and installation hardware are correct.
  - 4. Containers and packages are intact and labels legible.
  - 5. Products are protected and undamaged.

3.3 PRODUCT HANDLING

- A. Provide equipment and personnel to handle products by methods to prevent soiling and damage.
  
- B. Provide additional protection during handling to prevent marring and otherwise damaging products, packaging and surrounding surfaces.

- C. Handle product by methods to avoid bending or over-stressing. Lift large and heavy components only at designated lift points.

END OF SECTION

SECTION 01 66 00

PRODUCT STORAGE AND HANDLING REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

A. Requirements Included:

1. Storage, General.
2. Enclosed Storage.
3. Exterior Storage.
4. Maintenance of Storage.

B. Related Requirements:

1. Section 01 11 00 - Summary of Work.
2. Section 01 50 00 - Construction Facilities and Temporary Controls: Storage facilities. Protection of installed work.
3. Section 01 65 00 - Product Delivery Requirements.
4. Section 01 78 39 - Project Record Documents.

PART 2 - PRODUCTS - Not used.

PART 3 - EXECUTION

3.1 STORAGE, GENERAL

- A. Store products, immediately on delivery, in accordance with manufacturer's instructions, with seals and labels intact. Protect until installed.
- B. Arrange storage in a manner to provide access for maintenance of stored items and for inspection.

3.2 ENCLOSED STORAGE

- A. Store products, subject to damage by the elements, in substantial weathertight enclosures.
- B. Maintain temperature and humidity within ranges stated in manufacturer's instructions.
- C. Provide humidity control and ventilation for sensitive products as required by manufacturer's instructions.
- D. Store unpacked and loose products on shelves, in bins, or in neat groups of like items.

3.3 EXTERIOR STORAGE

- A. Provide substantial platforms, blocking, or skids, to support fabricated products above ground; slope to provide drainage. Protect products from soiling and staining.
- B. For products subject to discoloration or deterioration from exposure to the elements, cover with impervious sheet material. Provide ventilation to avoid condensation.
- C. Store loose granular materials on clean, solid surfaces such as pavement, or on rigid sheet materials, to prevent mixing with foreign matter.
- D. Provide surface drainage to prevent erosion and ponding of water.
- E. Prevent mixing of refuse or chemically injurious materials or liquids.

3.4 MAINTENANCE OF STORAGE

- A. Periodically inspect stored products on a scheduled basis.

- B. Verify that storage facilities comply with manufacturer's product storage requirements.
- C. Verify that manufacturer required environmental conditions are maintained continually.
- D. Verify that surfaces of products exposed to the elements are not adversely affected; that any weathering of finishes is acceptable under requirements of contract documents.

### 3.5 MAINTENANCE OF EQUIPMENT STORAGE

- A. For mechanical and electrical equipment in long-term storage, provide manufacturer's service instructions to accompany each item, with notice of enclosed instructions shown on exterior of package.
- B. Service equipment on a regularly scheduled basis, maintaining a log of services; submit as a record document.

END OF SECTION

SECTION 01 73 29

CUTTING AND PATCHING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Requirements and limitations for cutting and patching of work.
- B. Related Requirements:
  - 1. Section 01 11 00 - Summary of Work: Work by Owner or by separate contractors.
  - 2. Section 01 62 00 - Product Options.
  - 3. Individual Specifications Sections:
    - a. Cutting and patching incidental to work of the section.
    - b. Advance notification to other Sections of openings required in work of those sections.
    - c. Limitations on cutting structural members.

1.2 SUBMITTALS

- A. General: Submit in accordance with SECTION 01 33 23 – SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES.
- B. Submit written request in advance of cutting or alteration which affects
  - 1. Structural integrity of any element of the 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.
- C. Include in request
  - 1. Identification of project.
  - 2. Location and description of affected work.
  - 3. Necessity for cutting or alteration.
  - 4. Description of proposed work and products to be used.
  - 5. Alternatives to cutting and patching.
  - 6. Effect on work of Owner or separate contractor.
  - 7. Written permission of affected separate contractor.
  - 8. Date and time work will be executed.

1.3 PAYMENT FOR COSTS

- A. Costs resulting from ill-timed or defective work, or work not conforming to contract documents, including costs for additional services of Architect or other consultants, shall be borne by the Contractor.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Products: Those required for original installation.
- B. For any change in materials, submit request for substitution under provisions of SECTION 01 62 00 - PRODUCT OPTIONS.

PART 3 - EXECUTION

3.1 GENERAL

- A. Execute cutting, fitting and patching to complete work, and to
  - 1. Fit the several parts together, to integrate with other work.
  - 2. Uncover work to install ill-timed work.
  - 3. Remove and replace defective and non-conforming work.

4. Remove samples of installed work for testing.
5. Provide openings in elements of work for penetrations of mechanical and electrical work.

### 3.2 INSPECTION

- A. Inspect existing conditions, including elements subject to damage or movement during cutting and patching.
- B. After uncovering, inspect conditions affecting performance of work.
- C. Beginning of cutting or patching means acceptance of existing conditions.

### 3.3 PREPARATION

- A. Provide temporary supports to assure structural integrity of surroundings; devices and methods to protect other portions of project from damage.
- B. Provide protection from elements for areas which may be exposed by uncovering work; maintain excavations free of water.
- C. Maintain excavations free of water.

### 3.4 PERFORMANCE

- A. Execute work by methods to avoid damage to other work, and which will provide proper surfaces to receive patching and finishing.
- B. Employ original installer to perform cutting and patching for weather-exposed and moisture-resistant elements, and sight-exposed surfaces.
- C. Cut rigid materials using masonry saw or core drill. Pneumatic tools not allowed without prior approval.
- D. Restore work with new products in accordance with requirements of contract documents.
- E. Fit work tight to pipes, sleeves, ducts, conduit and other penetrations through surfaces.
- F. At penetrations of fire-rated wall, ceiling, or floor construction, completely seal voids with fire-rated packing material, full thickness of the construction element.
- G. Refinish surfaces to match adjacent finishes. For continuous surfaces, refinish to nearest intersection; for an assembly, refinish entire unit.

END OF SECTION

SECTION 01 74 13

CLEANING

PART 1 - GENERAL

1.1 SUMMARY

- A. Work Included: Throughout the construction period, maintain the building and site in a standard of cleanliness as described in this section.
- B. Related Requirements: In addition to standards described in this section, comply with requirements for cleaning as described in other pertinent sections of these specifications.

1.2 QUALITY ASSURANCE

- A. Conduct a daily inspection, and more often if necessary, to verify that requirements for cleanliness are being met.

PART 2 - PRODUCTS

2.1 CLEANING MATERIALS AND EQUIPMENT

- A. Provide required personnel, equipment, and materials needed to maintain the specified standard of cleanliness.

2.2 COMPATIBILITY

- A. Use only the cleaning materials and equipment which are compatible with the surface being cleaned, as recommended by the manufacturer of the material.

PART 3 - EXECUTION

3.1 PROGRESS CLEANING

- A. General:
  - 1. Retain stored items in an orderly arrangement allowing maximum access, not impeding traffic or drainage, and providing required protection of materials.
  - 2. Do not allow accumulation of scrap, debris waste material, and other items not required for construction of the work.
  - 3. At least twice each month, and more often if necessary, completely remove all scrap, debris, and waste material from the project sites.
  - 4. Provide adequate storage for all items awaiting removal from the project sites, observing requirements for fire protection and protection of the ecology.
- B. Site:
  - 1. Daily, and more often if necessary, inspect the sites and pick up all scrap, debris, and waste material. Remove such items to the place designated for their storage.
  - 2. Weekly, and more often if necessary, inspect all arrangements of materials stored on the sites. Restack, tidy, or otherwise service arrangements to meet the requirements of this section.
  - 3. Maintain the site[s] in a neat and orderly condition at all times.
- C. Structure:
  - 1. Weekly, and more often if necessary, inspect the structures and pick up all scrap, debris, and waste material. Remove such items to the place designated for their storage.
  - 2. Weekly, and more often if necessary, sweep interior spaces clean.
    - a. "Clean", for the purpose of this subparagraph, shall be interpreted as meaning free from dust and other material capable of being removed by use of reasonable effort and a hand-held broom.
  - 3. As required preparatory to installation of succeeding materials, clean the structure[s] or pertinent portions thereof to the degree of cleanliness recommended by the manufacturer of the succeeding material, using equipment and materials required to achieve the necessary cleanliness.

4. Following the installation of finish floor materials, clean the finish floor daily (and more often if necessary) at all times while work is being performed in the space in which finish materials are installed.
  - a. "Clean", for the purpose of this subparagraph shall be interpreted as meaning free from foreign material which, in the opinion of the Architect, may be injurious to the finish floor material.

### 3.2 FINAL CLEANING

- A. "Clean", for the purpose of this Article, and except as may be specifically provided otherwise, shall be interpreted as meaning the level of cleanliness generally provide by skilled cleaners using commercial quality building maintenance equipment and materials.
- B. Prior to completion of the work, remove from the project sites all tools, surplus materials, equipment, scrap, debris, and waste. Conduct final progress cleaning as described in this section.
- C. Site:
  1. Unless otherwise specifically directed by Architect, broom clean paved areas on the sites and public paved areas adjacent to the sites.
  2. Completely remove resultant debris.
- D. Structure:
  1. Interior:
    - a. Visually inspect interior surfaces and remove all traces of soil, waste materials, smudges, and other foreign matter.
    - b. Remove all traces of splashed material from adjacent surfaces.
    - c. Remove paint droppings, spots, stains, and dirt from finished surfaces.
  2. Glass: Clean inside and outside.
  3. Polished Surfaces: To surfaces requiring routine application of buffed polish, apply the polish recommended by the manufacturer of the material being polished. This does not apply to resilient flooring surfaces. Reference SECTION 09 65 00 - RESILIENT FLOORING for cleaning of resilient flooring.
- E. Special floor/base final cleaning requirements:
  1. Contractor shall coordinate with the Owner's housekeeping department for preparing the surfaces for final cleaning by the Contractor and protective coatings installed by the Owner.
  2. Protection after final treatment until date of Substantial Completion shall be the responsibility of the Contractor.
  3. All repairs or re-application required as a result of damage caused by the Work shall be the responsibility of the Contractor as directed by the Owner.
- F. Schedule final cleaning, as approved by the Architect, to enable the Owner to accept a completely clean work.

### 3.3 CLEANING DURING OWNER'S OCCUPANCY

- A. Should the Owner occupy the work, or any portion thereof, prior to its completion by the Contractor and acceptance by the Owner, responsibilities for interim and final cleaning shall be as determined by the Architect in accordance with the General Conditions of the Contract for Construction.

END OF SECTION

SECTION 01 77 00

CLOSEOUT PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Administrative and procedural requirements for project closeout, including but not limited to:
  - 1. Inspection procedures.
  - 2. Project record document submittal.
  - 3. Operating and maintenance data submittal, including training sessions for equipment and systems.
  - 4. Submittal of warranties.
  - 5. Submittal of spare parts and maintenance materials.
- B. Related Requirements:
  - 1. Section 01 11 00 - Summary of Work: record drawings.
  - 2. Section 01 33 23 - Shop Drawings, Product Data and Samples.
  - 3. Section 01 74 13 - Progress Cleaning: final cleaning.

1.2 SUBSTANTIAL COMPLETION

- A. General: Substantial Completion is defined in **Paragraph 9.8.1 (A201 and A201/CMA) or Paragraph 14.2 (A107)** of the General Conditions.
- B. Preliminary Procedures: Before requesting inspection for certification of substantial completion, complete the following. List exceptions in the request.
  - 1. In the Application for Payment that coincides with, or first follows, the date Substantial Completion is claimed, show 100% completion for the portion of the work claimed as substantially complete. Include supporting documentation for completion as indicated in these Contract Documents and a statement showing an accounting of changes to the Contract Sum.
    - a. If 100% completion cannot be shown, include a list of incomplete items, the value of incomplete construction and reasons the work is not complete.
  - 2. Advise Owner of pending insurance change-over requirements.
  - 3. Submit specific warranties, maintenance agreements, final certifications and similar documents.
  - 4. Obtain and submit releases enabling the Owner unrestricted use of the work and access to services and utilities; include occupancy permits, operating certificates and similar releases.
  - 5. Submit record drawings, maintenance manuals and similar final record information.
  - 6. Deliver tools, spare parts, extra stock and similar items.
  - 7. Make final change-over of permanent locks and transmit keys and keying schedule to the Owner. Advise the Owner's personnel of change-over in security provisions.
  - 8. Complete start-up testing of systems, and training sessions for Owner's operating and maintenance personnel. Discontinue or change over and remove temporary facilities from the site, along with construction tools, mock-ups and similar elements.
  - 9. Complete final clean-up requirements, including touch-up painting. Touch-up and otherwise repair and restore marred exposed finishes.
- C. Inspection Procedures: On receipt of a request for inspection, the Architect will either proceed with inspection or advise the Contractor of unfulfilled requirements. The Architect will prepare the Certificate of Substantial Completion following inspection, or advise the Contractor of construction that must be completed or corrected before the certificate will be issued.
  - 1. Architect will repeat the inspection when requested and assured that the work has been substantially completed.
- D. Results of the completed inspection will form the basis of requirements for final acceptance.

1.3 FINAL ACCEPTANCE

- A. Preliminary Procedures: Before requesting final inspection for certification of final acceptance and final payment, submit the following. List exceptions in the request.
  - 1. Final payment request with releases and supporting documentation not previously submitted and accepted. Include certificates of insurance for products and completed operations where required.

2. Updated final statement, accounting for final additional changes to the contract sum.
  3. Certified copy of the Architect's final inspection list of items to be completed or corrected, stating that each item has been completed or otherwise resolved for acceptance, and the list has been endorsed and dated by the Architect.
  4. Consent of surety to final payment.
  5. Final Liquidated Damages settlement statement.
  6. Evidence of final, continuing insurance coverage complying with insurance requirements.
  7. Evidence of Compliance with Requirements of Governing Authorities
    - a. Certificate of Occupancy.
    - b. Certificates of Inspection required for mechanical and electrical systems.
  8. Operation and Maintenance Data: Under provisions of SECTION 01 78 23 - OPERATION AND MAINTENANCE DATA.
  9. Warranties and Bonds: Under provisions of SECTION 01 78 30 - WARRANTIES AND BONDS.
  10. Project Record Documents: Under provisions of SECTION 01 78 39 - PROJECT RECORD DOCUMENTS.
  11. Spare Parts and Maintenance Materials: Under provisions of SECTION 01 78 40 - SPARE PARTS, OVERAGES AND MAINTENANCE MATERIALS.
  12. Evidence of Payment and Release of Liens: In accordance with General Conditions of the Contract for Construction.
  13. Evidence of Payment of Debts and Claims: In accordance with General Conditions of the Contract for Construction.
  14. Certificate of Project Compliance: Required under provisions of Texas Administrative Code (TAC), Chapter 61, 1036(c)(3)(F). Form developed by the Texas Education Agency (TEA). **See form attached to the end of this Section.**
  15. Certification of Asbestos and Lead Free Project: The Contractor shall submit to the Architect a letter addressed to the Owner certifying that no materials used in the construction of this project contain lead nor asbestos materials in excess of amounts allowed by local/state standards, laws, codes, rules and regulations, Federal Environmental Protection Agency (EPA) standards and the Federal Occupational Safety and Health Administration (OSHA) standards, whichever are most restrictive. Certification shall further state that should lead or asbestos fibers be found in this project in concentrations greater than the allowed amounts, that the Contractor shall be responsible for determining which materials contain the lead or asbestos fibers and shall take corrective action to remove those materials from the project at no additional cost to the Owner. Final payment shall not be made until this letter of certification has been received.
- B. Re-inspection Procedures: Architect will re-inspect the work upon receipt of notice that the work, including inspection list items from earlier inspections, has been complete, except items whose completion has been delayed because of circumstances acceptable to the Architect.
1. Upon completion of re-inspection, the Architect will advise the Contractor of work that is incomplete or of obligations that have not been fulfilled but are required for final acceptance.
  2. If necessary, re-inspection will be repeated.
- C. Re-inspection Fees: Should status of completion of work require re-inspection by Architect due to failure of work to comply with Contractor's claims on initial inspection, Owner will deduct the amount of Architect and appropriate consultants compensation for re-inspection services from final payment to Contractor. The reimbursement transaction shall be executed by change order to the contract.

#### 1.4 CLOSEOUT PROCEDURES

- A. Maintenance Manuals: Organize operating and maintenance data into suitable sets of manageable size. Bind properly indexed data in three individual heavy-duty 3-1/2", three-ring vinyl-covered binders, with identification on front and spine of each binder. Include the following types of information:
1. Emergency instructions.
  2. Spare parts list.
  3. Copies of warranties.
  4. Wiring diagrams.
  5. Recommended "turn around" cycles.
  6. Inspection procedures.
  7. Shop drawings.
  8. Fixture lamping schedule.

- B. Shop Drawings: Keep and maintain a full set of submittals throughout the construction phase to be submitted to the Architect with other close-out documents for delivery to the Owner for his permanent record. Set of submittals shall be delivered to the Architect in cardboard file boxes with string and button type closures. Organize submittals by CSI divisions, utilizing neatly labeled pressboard dividers to separate the sections. Neatly label short end of box with project name, contents and duration of construction.
- C. Operating and Maintenance Training Sessions: Prepare a written agenda of items to be covered at each training session. Attendance by Owner's operating and maintenance personnel is mandatory. Notify Owner not less than 48 hours prior to scheduled training sessions.
1. Arrange for each installer of equipment and systems that requires regular maintenance to meet with the Owner's personnel to provide instruction in proper operation and maintenance. If installers are not experienced in procedures, provide instruction by manufacturer's representatives. Include a detailed review of the following items:
    - a. Maintenance manuals.
    - b. Record documents.
    - c. Spare parts and materials.
    - d. Tools.
    - e. Lubricants.
    - f. Fuels.
    - g. Identification systems.
    - h. Control sequences.
    - i. Hazards.
    - j. Cleaning.
    - k. Warranties and bonds.
    - l. Maintenance agreements and similar continuing commitments.
  2. Training sessions shall consist of not less than five days of not less than four hours each day. A copy of maintenance manuals for equipment or system being demonstrated shall be on hand during training session. As part of instruction for operating equipment, demonstrate the following procedures:
    - a. Start-up.
    - b. Shutdown.
    - c. Emergency operations.
    - d. Noise and vibration adjustments.
    - e. Safety procedures.
    - f. Economy and efficiency adjustments.
    - g. Effective energy utilization.
  3. Training sessions shall be conducted for:
    - a. Food service equipment.
  4. Demonstration and Training DVDs
    - a. General: Engage a qualified commercial photographer to record demonstration and training DVDs. Record each training session separately. Include classroom instructions and demonstrations, board diagrams, and other visual aids.
    - b. Digital Format: Provide high-quality DVD color recording.
    - c. Recording: Mount camera on tripod before starting recording, unless otherwise necessary to show area of demonstration and training. Display continuous running time.
    - d. Narration: Describe scenes by audio narration by microphone while being recorded. Include description of items being viewed. Describe vantage point, indicating location, direction (by compass point), and elevation or story of construction.
    - e. Transcript: Provide a typewritten transcript of the narration. Display images and running time captured from recording opposite the corresponding narration segment.

## PART 2 - PRODUCTS

Not used.

## PART 3 - EXECUTION

Not used.

END OF SECTION

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**CERTIFICATION  
OF PROJECT  
COMPLIANCE**

**Distribution to:**

|            |     |                        |     |
|------------|-----|------------------------|-----|
| District   | ___ | Architect/Engineer     | ___ |
| Contractor | ___ | Texas Education Agency | ___ |
| Other      | ___ | Building Department    | ___ |

---

**1. PROJECT INFORMATION:**  
(name, address)

**ARCHITECT/ENGINEER:**

**CONTRACTOR/CM:**

**PROJECT NUMBER:**

**CONTRACT DATE:**

**DISTRICT:**

**DATE DISTRICT AUTHORIZES PROJECT:**

**BRIEF DESCRIPTION OF PROJECT:**

---

**2. CERTIFICATION OF DESIGN AND CONSTRUCTION**

The intent of this document is to assure that the school district has provided to the architect/engineer the required information and the architect/engineer has reviewed the School Facilities Standards as required by the State of Texas, and used his/her reasonable professional judgment and care in the architectural/engineering design and that the contractor has constructed the project in a quality manner in general conformance with the design requirements and that the school district certifies to project completion.

**3. The District** certifies that the enrollment projections, educational specifications and objectives of this facility along with the identified building code to be used have been provided to the architect/engineer.

**DISTRICT: BY:**

**DATE:**

**4. The Architect/Engineer** certifies the above information was received from the school district, and that the building(s) were designed in accordance with the applicable building codes. Further, the facility has been designed to meet or exceed the design criteria relating to space (minimum square footage), educational adequacy, and construction quality as contained in the School Facilities Standards as adopted by the State Board of Education, July 1992, and as provided by the district.

**ARCHITECT/ENGINEER: BY:**

**DATE:**

**5. The Contractor/CM** certifies that this project has been constructed in general conformance with the construction documents as prepared by the architect/engineer listed above.

**CONTRACTOR/CM: BY:**

**DATE:**

**6. The District** certifies completion of the project (as defined by the architect/engineer and contractor).

**DISTRICT: BY:**

**DATE:**

---

## INSTRUCTIONS FOR COMPLETION OF “CERTIFICATION OF PROJECT COMPLIANCE” FORM

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Section 1. Identify the following:

- name and address of the school facility
- the Architect/Engineer and Contractor
- the school district’s project number (if applicable)
- the date of execution of the construction contract
- name, address, and telephone number of the school district
- the date that the school district authorized the superintendent to hire an architect/engineer
- scope of the project.

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Section 2. This section outlines the intent of the document. No action required.

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Section 3. This section is to be executed by the school district upon transmittal of the information (as listed) to the architect/engineer and is to remain in the custody of the school district throughout the entire project.

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Section 4. This section is to be executed by the architect/engineer upon completion of the plans and specifications and in conjunction with the completion of the plan review for code compliance (ref. 19 TAC §61.104, School Facilities Standards) and returned to the school district’s files.

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Section 5. This section is to be executed by the contractor upon substantial completion of the project and retained in the school district’s files.

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Section 6. This section is to be executed by the school district upon acceptance and occupancy of the project.

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NOTE: DO NOT SUBMIT THIS DOCUMENT TO THE TEXAS EDUCATION AGENCY. The school district will retain this document in their files indefinitely until review and/or submittal is required by representatives of the Texas Education Agency.

SECTION 01 78 23

OPERATION AND MAINTENANCE DATA

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
  - 1. Format and content of manuals.
  - 2. Instruction of Owner's personnel.
  - 3. Schedule of submittals.
  
- B. Related Requirements:
  - 1. Section 01 33 23 - Shop Drawings, Product Data, and Samples.
  - 2. Section 01 45 00 - Quality Control: Manufacturer's instructions.
  - 3. Section 01 77 00 - Closeout Procedures.
  - 4. Section 01 78 30 - Warranties and Bonds.
  - 5. Section 01 78 39 - Project Record Documents.
  - 6. Individual Specifications Sections: Specific requirements for operation and maintenance data.

1.2 QUALITY ASSURANCE

- A. Prepare instructions and data by personnel experienced in maintenance and operation of described products.

1.3 FORMAT

- A. Prepare data in the form of an instructional manual.
  
- B. Binders: Bind in three individual heavy-duty 8-1/2" x 11" black, three-ring binders with hardback, cleanable, plastic covers; 3" maximum ring size. When multiple binders are used, correlate data into related consistent groupings.
  
- C. Cover: Identify each binder with typed or printed title OPERATION AND MAINTENANCE INSTRUCTIONS; list title of project identify subject matter of contents.
  
- D. Arrange content by systems, under section numbers and sequence of table of contents of this project manual.
  
- E. Provide tabbed fly leaf for each separate product and system, with typed description of product and major component parts of equipment.
  
- F. Text: Manufacturer's printed data, or typewritten data on 20-pound paper.
  
- G. Drawings: Provide with reinforced punched binder tab. Bind in with text; fold larger drawings to size of text pages.

1.4 CONTENTS, EACH VOLUME

- A. Table of Contents: Provide title of project; names, addresses, and telephone numbers of Architect/Engineer and Contractor with name of responsible parties; schedule of products and systems, indexed to content of the volume.
  
- B. For Each Product or System: List names, addresses and telephone numbers of subcontractors and suppliers, including local source of supplies and replacement parts.
  
- C. Product Data: Mark each sheet to clearly identify specific products and component parts, and data applicable to installation; delete inapplicable information.
  
- D. 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.

E. Typed Text: As required to supplement product data. Provide logical sequence of instructions for each procedure, incorporating manufacturer's instructions specified in SECTION 01 45 00 - QUALITY CONTROL.

F. Warranties and Bonds: Bind in copy of each.

#### 1.5 MANUAL FOR MATERIALS AND FINISHES

A. Building Products, Applied Materials, and Finishes: Include product data, with catalog number, size, composition, and color and texture designations. Provide information for re-ordering custom manufactured products.

B. Instructions for Care and Maintenance: Include manufacturer's recommendations for cleaning agents and methods, precautions against detrimental agents and methods, and recommended schedule for cleaning and maintenance.

C. Moisture-protection and Weather-exposed Products: Include product data listing applicable reference standards, chemical composition, and details of installation. Provide recommendations for inspections, maintenance, and repair.

D. Additional Requirements: As specified in individual specifications sections.

E. Provide a listing in table of contents for design data, with tabbed fly sheet and space for insertion of data.

#### 1.6 MANUAL FOR EQUIPMENT AND SYSTEMS

A. Each Item of Equipment and Each System: Include description of unit or system, and component parts. Give function, normal operating characteristics, and limiting conditions. Include performance curves, with engineering data and tests, and complete nomenclature and commercial number of replaceable parts.

B. Panelboard Circuit Directories: Provide electrical service characteristics, controls, and communications.

C. Include as-installed color coded wiring diagrams.

D. Operating Procedures: Include start-up, break-in, and routine normal operating instructions and sequences. Include regulation, control, stopping, shut-down, and emergency instructions. Include summer, winter, and any special operating instructions.

E. Maintenance Requirements: Include routine procedures and guide for trouble-shooting; disassembly, repair, and reassembly instructions; and alignment, adjusting, balancing, and checking instructions.

F. Provide servicing and lubrication schedule, and list of lubricants required.

G. Include manufacturer's printed operation and maintenance instructions.

H. Include sequence of operation by controls manufacturer.

I. Provide original manufacturer's parts list, illustrations, assembly drawings, and diagrams required for maintenance.

J. Provide as-installed control diagrams by controls manufacturer.

K. Provide Contractor's coordination drawings, with as-installed color coded piping diagrams.

L. Provide charts of valve tag numbers, with location and function of each valve, keyed to flow and control diagrams.

M. Provide list of original manufacturer's spare parts, current prices, and recommended quantities to be maintained in storage.

N. Additional Requirements: As specified in individual specifications sections.

- O. Provide a listing in table of contents for design data, with tabbed fly sheet and space for insertion of data.

#### INSTRUCTION OF OWNER PERSONNEL

- P. Before final inspection, instruct Owner's designated personnel in operation, adjustment, and maintenance of products, equipment, and systems, at agreed upon times. For equipment requiring seasonal operation, perform instructions for other seasons within six months.
- Q. Use operation and maintenance manuals as basis of instruction. Review contents of manual with personnel in detail to explain all aspects of operation and maintenance.
- R. Prepare and insert additional data in operation and maintenance manual when need for such data becomes apparent during instruction.

#### 1.7 SUBMITTALS

- A. Submit two copies of preliminary draft or proposed formats and outlines of contents before start of work. Architect/Engineer will review draft and return one copy with comments.
- B. For equipment, or component parts of equipment put into service during construction and operated by Owner, submit documents within 10 days after acceptance.
- C. Submit one copy of completed volumes in final form 15 days prior to final inspection. Copy will be returned after final inspection, with Architect/Engineer comments. Revise content of documents as required prior to final submittal.
- D. Submit two copies of revised volumes of data in final form within 10 days after final inspection.

#### PART 2 - PRODUCTS

Not used.

#### PART 3 - EXECUTION

Not used.

END OF SECTION

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SECTION 01 78 30

WARRANTIES AND BONDS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
  - 1. Preparation and submittal of warranties and bonds.
  - 2. Schedule of submittals.
- B. Related Requirements:
  - 1. General Conditions of the Contract for Construction: Performance Bond and Labor and Material Payment Bonds, Warranty, and Correction of Work.
  - 2. Section 01 77 00 - Closeout Procedures.
  - 3. Section 01 78 23 - Operation and Maintenance Data.
  - 4. Section 01 78 39 - Project Record Documents.
  - 5. Individual Specifications Sections: Warranties and bonds required for specific products or work.

1.2 FORM OF SUBMITTALS

- A. Bind in three individual heavy-duty 8-1/2" x 11" black, three-ring binders, with hardback, cleanable, plastic covers.
- B. Label cover of each binder with typed or printed title WARRANTIES AND BONDS, with title of project; name, address and telephone number of Contractor; and name of responsible principal.
- C. Table of Contents: Neatly typed, in the sequence of the table of contents of the project manual, with each item identified with the number and title of the specification section in which specified, and the name of product or work item.
- D. Separate each warranty or bond with index tab sheets keyed to the table of contents listing. Provide full information, using separate typed sheets as necessary. List subcontractor, supplier, and manufacturer, with name, address, and telephone number of responsible principal.

1.3 PREPARATION OF SUBMITTALS

- A. Obtain warranties and bonds, executed in duplicate by responsible subcontractors, suppliers, and manufacturers, within ten 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 the 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.

1.4 TIME OF SUBMITTALS

- A. For equipment or component parts of equipment put into service during construction with Owner's permission, submit documents within ten days after acceptance.
- B. Make other submittals within 10 days after date of substantial completion, prior to final application for payment.
- C. For items of work when acceptance is delayed beyond date of substantial completion, submit within ten days after acceptance, listing the date of acceptance as the beginning of the warranty period.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

SECTION 01 78 39

PROJECT RECORD DOCUMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes: Maintenance and submittal of record documents and samples.
- B. Related Requirements:
  - 1. General Conditions of the Contract for Construction: Documents at the site.
  - 2. Section 01 33 23 - Shop Drawings, Product Data, and Samples.
  - 3. Section 01 77 00 - Closeout Procedures.
  - 4. Section 01 78 23 - Operation and Maintenance Data.
  - 5. Individual Specifications Sections: Manufacturer's certificates and certificates of inspection.

1.2 MAINTENANCE OF DOCUMENTS AND SAMPLES

- A. In addition to requirements in General Conditions, maintain at the site for Owner one record copy of:
  - 1. Contract drawings.
  - 2. Specifications.
  - 3. Addenda.
  - 4. Change orders and other modifications to the contract.
  - 5. Reviewed shop drawings, product data, and samples.
  - 6. Field test records.
  - 7. Inspection certificates.
  - 8. Manufacturer's certificates.
- B. Store record documents and samples in field office apart from documents used for construction. Provide files, racks, and secure storage for record documents and samples.
- C. Label and file record documents and samples in accordance with section number listings in table of contents of this project manual. Label each document "PROJECT RECORD" in neat, large, printed letters.
- D. Maintain record documents in a clean, dry and legible condition. Do not use record documents for construction purposes.
- E. Keep record documents and samples available for inspection by Architect.

1.3 RECORDING

- A. Record information on a set of opaque drawings, and in a copy of a project manual. All changes made in these drawings in connection with the final construction and installation shall be neatly made in red ink on the prints.
- B. Provide felt tip marking pens, maintaining separate colors for each major system, for recording information.
- C. Contractor shall include with the record documents, all changes and modifications made by addenda, change orders, supplementary instructions, or other forms of documentation, written or verbal, which alter the documents.
- D. Record information concurrently with construction progress. Do not conceal any work until required information is recorded.
- E. Contract drawings and shop drawings: Legibly mark each item on the drawings to record actual construction, including:
  - 1. Measured depths of elements of foundation in relation to finish first floor datum.
  - 2. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
  - 3. Measured locations of internal utilities and appurtenances concealed in construction, referenced to visible and accessible features of construction.

4. Field changes of dimension and detail.
  5. Changes made by addenda and modifications.
  6. Details not on original contract drawings.
  7. References to related shop drawings and modifications.
- F. Specifications: Legibly mark each item in the specifications to record actual construction, including:
1. Manufacturer, trade name, and catalog number of each product actually installed, particularly optional items and substitute items.
  2. Changes made by addenda and modifications.
- G. Other Documents: Maintain manufacturer's certifications, inspection certifications, field test records, and other documents required by individual specifications sections.
- H. Maintain these documents to reflect the current conditions of the work. Changes shall be reviewed on a monthly basis with the Architect's representative. The Contractor's updating of the "installed condition drawings" shall be a prerequisite to the monthly review of the Contractor's payment request by the Architect's representative.

#### 1.4 SUBMITTALS

- A. At contract closeout, deliver record documents and samples under provisions of SECTION 01 77 00 - CLOSEOUT PROCEDURES.
- B. Transmit with cover letter in duplicate, listing:
1. Date.
  2. Project title and number.
  3. Contractor's name, address, and telephone number.
  4. Number and title of each record document.
  5. Signature of Contractor or authorized representative.

#### PART 2 - PRODUCTS

Not used.

#### PART 3 - EXECUTION

Not used.

END OF SECTION

SECTION 01 78 40

SPARE PARTS, OVERAGES AND MAINTENANCE MATERIALS

PART 1 - GENERAL

1.1 SUMMARY

- A. Requirements Includes:
  - 1. Products required.
  - 2. Storage and delivery of products.
- B. Related Requirements:
  - 1. Section 01 66 00 - Product Storage and Handling Requirements.
  - 2. Section 01 77 00 - Closeout Procedures.
  - 3. Section 01 78 23 - Operation and Maintenance Data.
  - 4. Individual Specifications Sections: Specific spare parts and materials required.

1.2 PRODUCTS REQUIRED

- A. Provide quantities of products, spare parts, maintenance tools, and maintenance materials specified in individual sections to be provided to Owner, in addition to that required for completion of work.
- B. Products: Identical to those installed in the work. Include quantities in original purchase from manufacturer to avoid variations in manufacture.

1.3 STORAGE, MAINTENANCE

- A. Store products with products to be installed in the work, under provisions of SECTION 01 66 00 - PRODUCT STORAGE AND HANDLING REQUIREMENTS.
- B. When adequate, secure storage facilities are available at site, capable of maintaining conditions required for storage and not required for contract work or storage, or for Owner's needs, spare products may be stored in available space.
- C. Maintain spare products in original containers with labels intact and legible, until delivery to Owner.

1.4 DELIVERY

- A. Coordinate with Owner: Deliver and unload spare products to Owner at the Owner's Maintenance Facility and obtain receipt prior to final payment.
- B. For portions of project accepted and occupied by Owner prior to substantial completion, deliver a proportional part of spare products to Owner; obtain receipt.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

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SECTION 11 40 00

FOODSERVICE EQUIPMENT

PART 1 - GENERAL

1.1 WORK INCLUDED

- A. The work covered includes the furnishing of all labor, materials, accessories, and special services necessary to complete the Foodservice Equipment Work as specified herein and where shown and scheduled on the drawings.
- B. It is the intent of the Contract Documents for each and every item and/or component to be complete with all necessary devices for the Item and/or component to properly function and perform in a manner equal to the manufacturer's stipulations.
- C. The applicable provisions of Division 22 and 26 are a part of this specification; the Contractor shall consult them in detail for instructions pertaining to this work, together with all other Divisions relative hereto.
- D. The work shall include, but not be limited to, the following:
  - 1. The purchase and/or fabrication, delivery, unpacking and setting up of all items in the correct locations and make ready for final utility connections.
  - 2. Furnishing Division 26 with all controls for items requiring electrical connections including as hereinafter noted, or shown on the Contract Drawings.
  - 3. Furnishing Division 22 with the control valves, pressure reducing valves, faucets, and specialty fittings as hereinafter noted, or shown on the Contract Drawings.
  - 4. Supervising the mechanical and electrical connections and testing each item for performance, and the replacement of any item, which fails to perform as claimed by the manufacturer.
  - 5. Start-up and Demonstrations are to be conducted in the proper operation and maintenance of each piece of equipment by Manufacturer's Representative and Equipment Supplier.

1.2 RELATED WORK SPECIFIED ELSEWHERE

- A. All plumbing, electrical and ventilation work required in connection with this equipment will be done by Contractors under Division 22 and 26 unless specifically called for otherwise in the Item Specifications. The work to be done by these Contractors shall include roughing-in to points indicated on dimensioned utility requirements rough-in plans, mounting of trim items such as faucets, sink wastes, pre-rinse sprays, syphon breakers, and the final connecting from the roughing-in point to the various pieces of equipment requiring such connections, and the supplying of all necessary materials and labor for this work except as hereinafter noted.
- B. Refrigeration work shall be done by the Food Service Equipment Supplier as hereinafter listed in the Item Specifications, except for electrical and plumbing connections to compressors, blower coils, controls, etc. These final connections will be made by Contractors under Divisions 22 and 26. Drain lines from Walk-In Cooler/Freezer blower coils to be furnished and installed by Refrigeration System Installer.
- C. All traps, grease traps, line strainers, valves, stops, shut-offs and fittings necessary for equipment specified will be furnished and installed under the Mechanical Contractors under Division 22, unless specifically called for otherwise under each item.
- D. All line and disconnect switches, safety cut-offs and fittings, convenience outlets, outlet boxes, wiring, conduit, control panels, fuse boxes or other electrical controls, fittings and connections will be furnished and installed under Electrical Contractors under Division 26. Starting switches are to be provided by the Food Service Equipment Supplier. Those starting switches furnished loose as standardized by Food Service Equipment Manufacturers (other than fabricated items) shall be mounted and wired complete by Contractors under Division 26.

- E. Any sleeves or conduit required for installation of refrigeration lines, syrup lines or CO2 tubing will be furnished and installed by Mechanical Contractors under Division 22.
- F. Necessary stainless steel seamless exhaust ducts of size and capacity required to operate fixtures specified, together with final approved connection between roughed-in vent openings and the ceiling connection will be furnished and installed by Food Service Equipment Supplier unless otherwise noted in the Itemized Specifications.
- G. Ventilating fans and all duct work between same and the exhaust hood duct collars and from same to discharge opening in building will be furnished and installed by Contractors under Division 22.
- H. Division 22 Contractor is to see that all plumbing lines are flushed free of foreign matter before connecting to foodservice fixtures.
- I. Water inlets shall be located above the positive level to prevent syphoning of liquids into the potable water system. Wherever conditions shall require submerged inlet, a suitable approved type of check valve and vacuum breaker shall be placed on the fixture by the Contractor under Division 22 to form part of same to prevent syphoning. If exposed and design dictates, piping and fittings shall be chrome plated.
- J. Contractor under Division 26 shall inter-wire fire protection system, walk-in coolers and freezers, exhaust ventilators, lights, exhaust fans, as required for complete operation as designed, and furnish wall mounted light and exhaust fan switches.

#### 1.3 QUALITY ASSURANCE:

- A. Qualification of Suppliers: Commercial foodservice equipment suppliers shall submit satisfactory evidence of compliance with the following qualifications and conditions to be approved.
  - 1. Successful completion of jobs of comparable scope.
  - 2. Have manufacturer's authorization to distribute and install specified factory items of equipment.
  - 3. Maintain a permanent staff experienced in the installation of foodservice equipment and preparation of professional style shop drawings and brochures.
  - 4. Maintain or have access to fabrication shop meeting all requirements of the section "Qualified Fabricators".
  - 5. Maintain or have access to a readily available stock of repair and replacement parts, together with authorized service personnel.
  - 6. Operation/Maintenance Manuals: Foodservice equipment supplier shall furnish three (3) bound sets of dimensional prints, data sheets, spare parts lists, and operating instructions for each piece of mechanical equipment. These are to be prepared and submitted to the Consultant for review and approval before demonstration of equipment to the Owner.
  - 7. All brochures shall be bound in hard durable covers bearing the job name and date of submission.

#### 1.4 PLANS AND SPECIFICATIONS

- A. Specifications and drawings have been prepared to form the basis for procurement, erection, start-up and adjustment of all equipment in this contract. Plans and specifications shall be considered as mutually explanatory and work required by one, but not by the other, shall be performed as though required by both. Items required by one, but not by the other should be provided as though required by both. Work shall be accomplished as called for in specifications and shown on drawings, so that all items of equipment shall be completely functional for purpose for which they were designed. When there is any discrepancy between drawings and specifications, bidders should seek clarification of any discrepancies from the Architect/Consultant prior to bidding.

#### 1.5 SUBMITTALS:

- A. Submittals shall be sent to the General Contractor/Construction Manager for review, coordination and processing completely in Adobe PDF format with one (1) printed copy for the consultant. Submittals shall be complete including all drawings and documentation necessary for a complete review. Partial submittals will not be accepted. This submittal is to be within terms set by Architect and to coincide with job conditions and is to include the following items:
1. Equipment arrangement plan
  2. Plumbing plan
  3. Electrical plan
  4. Ventilation plan
  5. Special conditions plan
  6. Shop drawings
- B. All drawings to be original prepared detailed arrangement plans from Architect's dimensioned plans (not reproduced from the Food Service Contract Documents) and rough-in plans showing dimensioned locations, sizes, elevations and capacities of all utility services required for each item of equipment. All responsibility for correct voltage, locations, capacities and quantities of all utility services resides with the Food Service Equipment Supplier in the preparation of these submittals.
1. Items A through E above shall be prepared at 1/4" to 1'-0" scale.
  2. Item F shall be prepared 3/4" to 1'-0" scale with sections at 1-1/2" to 1'-0" scale.
- C. It is advised that Foodservice Equipment not be ordered until submittals have been reviewed and stamped by Foodservice Equipment Consultant.
- D. Product data brochures complete with:
1. Cover Page listing name of project, Architect, General Contractor/Construction Manager, Food Service Equipment Consultant and Food Service Equipment Supplier and bound in loose-leaf manner such as three ring binder or spiral back brochure.
  2. Index of Items.
  3. Individual descriptive cover sheet to include Item #, manufacturer, description, accessories and options, finishes, and notes for Architect/Owner to select any color, finish, lettering etc. required. Include color charts if color selection is required.
  4. Manufacturer specification sheet complete with dimensions, options, and complete description of utility options and requirements.
  5. For custom fabricated items, list name of Qualified Fabricator selected for project.
  6. Cover sheet must be included for Items that are Owner or Vendor furnished and Spare Numbers.
  7. Buy out items such as walk-in cooler/freezer, exhaust hood, sneeze guards, serving counters, and floor troughs shall be prepared on sheet sizes and in the same manner as custom fabricated equipment.
  8. All data shall be submitted in quantities as described in Division 1.
- 1.6 PRODUCT DELIVERY, STORAGE AND HANDLING:
- A. Delivery: Equipment shall be delivered only after the building is weather and vandal safe.
- B. Storage: Store equipment in an area convenient to the point of installation in such a way that it can be protected from the weather and job hazards.
- C. Protection: Wrapping and protective coverings shall remain on all items until ready for use and in the case of stainless steel items, until installation is complete and the job is ready for cleaning.
- D. JURISDICTION TRADE AGREEMENTS AND RESTRICTIONS:
1. Include the work specified, shown or reasonably inferable as part of foodservice equipment. Portions of this work may be sub-contracted to those qualified to do such work, as may be necessary because of jurisdictional trade agreements and restrictions.
- 1.7 REGULATIONS AND CODES:

- A. In addition to complying with applicable laws, statutes, building codes and regulations of local public authorities, comply with the following:
  - 1. National Sanitation Foundation (to bear label)
  - 2. Underwriters' Laboratories, Inc.
  - 3. American Gas Association Laboratories
  - 4. National Fire Protection Association
  - 5. Occupational Safety and Health Act
  - 6. Americans with Disabilities Act
  - 7. Texas Accessibility Standards
  - 8. Current Applicable Building Code
  - 9. Current Applicable Plumbing Code
  - 10. Current Applicable Mechanical Code
  - 11. Current Applicable Electrical Code

#### 1.8 WARRANTIES:

- A. Warrantee in writing all equipment and fabrication against defects and workmanship for a period of one (1) year from date of acceptance.
- B. Each piece of mechanical equipment shall be listed, together with the authorized service and repair agency, which the Owner should call should malfunctions occur within the one (1) year guarantee period.
- C. Refrigeration system compressors shall be CFC free and warranted for five (5) years by the manufacturer. Free refrigeration service, including parts and labor, to be furnished for one (1) year from date of acceptance.

#### PART 2 – PRODUCTS

##### 2.1 MATERIALS:

- A. Refrigeration Systems: Self-contained refrigerators: Whether the units are top mounted or cabinet mounted, they shall be started by Food Service Equipment Supplier and shall be tested for maintenance of temperature.
- B. Fractional-horsepower compressors remotely installed within a fabricated closed base body fixture shall be located in a partitioned compartment fitted with a louvered door. The compressor shall be securely anchored to #14 gauge galvanized steel channels positioned 4" above the bottom of the fixture body and fitted with sound absorbing isolation pads.
- C. A cord and cap assembly pre-wired to a control switch installed near the front of the compressor compartment shall be provided.

##### 2.2 MOTORS AND HEATING ELEMENTS:

- A. Motors: Up to and including 1/2 H.P. shall be wired for 120 volt, single-phase service. Motors larger than 1/2 H.P. shall be wired for 208 volt, single or three phase as indicated.
- B. Heating elements having a connected load up to and including 1000 watts shall be wired for 120 or 208 volt, single phase service, or as indicated on the design drawings.
  - 1. Any heating element larger than 1000 watts or any combination of elements in one fixture totaling more than 1000 watts shall be wired for 208 volt, single or three phase service, as indicated on the design drawings.
  - 2. Fixtures having multiple heating elements may be wired for three (3)-phase service with the load balanced as equally as possible within the fixture.
  - 3. Wiring shall be properly protected in NEMA and UL approved metal enclosures.
- C. Switches and Controls:

1. Each motor driven appliance or electrically heated unit shall be equipped with a suitable control switch or starter of a type meeting the requirements of NEMA and UL codes.
  2. All controls mounted on vertical surfaces of fixtures shall be set into recessed die stamped stainless cups or other approved indentations.
- D. Faucets, Valves and Fittings:
1. All sinks shall be equipped with chromium plated, swing spout faucets equal to T. & S. Brass and Bronze Works, Inc., #B-0231-EE or #B-0290-LL units for splash mounted or #B-0221-EE deck mounted, unless otherwise specified in the Item Specifications.
  2. Specialty faucets will be listed under Item Specifications.
  3. For all other fittings, refer to Division 22.
  4. Comply with ANSI / NSF Standard 61 Requirements.
- 2.3 METALS AND ALLOYS:
- A. Non-corrodible Alloy: Shall be stainless steel, Type #304, U.S. standard gauges as indicated. All exposed surfaces shall have a #4 finish. Surface finish marred by manufacture shall be ground smooth, polished and restored to match original finish.
- B. Galvanized Metal: Where galvanized metal is specified, it shall be copper-bearing galvanized iron, Armco, Toncan, or equal, re-rolled for smoothness and used in the largest possible sizes with as few joints as necessary.
- C. Hardware and Casters:
1. All hardware shall be of a heavy-duty type, satin finished chromium plated brass, cast or forged or hi-lited stainless steel of uniform design. All hardware shall be a well-known brand, and shall be identified by the manufacturer's name and number for easy replacement of broken or worn parts.
  2. Casters on custom-built equipment shall be heavy-duty type, ball bearing, and solid or disc wheel, with grease-proof rubber, neoprene, or polyurethane tire. Wheel shall be 5" diameter, minimum width of tread 1-3/16", minimum capacity per caster 250 pounds, unless otherwise noted.
  3. Solid material wheels are to be provided with stainless steel rotating wheel guard.
  4. All casters shall have sealed wheel and swivel bearings, polished plated finish and be N.S.F. approved.
- D. Tempered Glass:
1. Fully tempered glass to be used in place of other glass products on all manufactured and custom fabricated equipment. All tempered glass to bear the etched logo indicating tempered glass and the manufacturer's number. The manufacturer to meet the requirements of ANSI Z97.1 standard and federal standard CPSC16CFR 1201, as well as state and local codes, safety glazing material where the glazing might reasonably be exposed to human impact. Applicable codes should be checked for specific information and requirements.
  2. Handling and installation of tempered glass should receive the same as annealed glass. Careless handling and improper installation sometimes produces edge damage. The tempered glass should be replaced if there is such damage. Tempered glass cannot be cut or modified following heat treatment.
  3. Provide a beveled or radius edge around the parameter of the tempered glass to eliminate all sharp areas that may cause injury to a person.
- E. Laminated Plastic:
1. Wherever laminated plastic materials are specified for cabinetwork, counter or top facings, they shall be Formica, Parkwood, Nevamar, or approved equal. All material to be veneered with Urea based cement, waterproof and heatproof.
  2. Material to be applied directly over 3/4" marine grade plywood or close-grained plywood such as solid Mahogany or solid Birch, of selected smooth sanded stock to ensure a smooth ripple-free laminated surface where approved by Consultant.
  3. Exposed faces and edges faced with 1/16" material and corresponding back faced with approved backing and balancing sheet material. Top sheet shall be placed on and over finished edge.

4. Rubber based adhesives are not acceptable.
5. Standard Fir plywood is not acceptable.

F. Thermometers:

1. All fabricated refrigerated compartments shall be fitted with dial type thermometers with chrome plated flush bezels. Thermometers shall be adjustable and shall be calibrated after installation.

G. Water Piping:

1. All manufactured and fabricated items having internal or external water piping are to make welded connections or connections using lead free solder except for ice bins which are to be PVC.
2. All exposed supply and drain lines shall be painted with chrome or aluminum paint.

2.4 FABRICATION AND MANUFACTURE:

A. Materials and Workmanship: Unless otherwise specified or shown on drawings, all material shall be new, of best quality, perfect and without flaws. Material shall be delivered and maintained on job in an undamaged condition.

B. Fabrication shall be equal to the standards of manufacture used by all first class equipment manufacturers, performed by qualified, efficient and skilled mechanics of the trades involved.

C. All items of standard equipment shall be the latest model at the time of delivery.

D. All fabricated work shall be the product of one manufacturer of uniform design and finish.

E. Sanitary Construction:

1. All fabricated equipment is to be constructed in strict compliance with the standards of the National Sanitation Foundation as outlined in their bulletin on Food Service Equipment entitled "Standard No. 2" dated October, 1952, and in full compliance with the local and State Public Health Regulations in which the installation is to be made.
2. All fabricated equipment shall bear the seal of approval of the National Sanitation Foundation.

F. Construction Methods:

1. Welding:
  - a. Stainless steel shall be arc welded with stainless steel electrodes. Welds shall be non-porous, free of pits and flaws, peened to remove flux and other impurities and ground smooth. Field joints necessary for delivery and assembly are to be solid welded by using the same materials and method as for shop welding. Field welded joints shall be ground smooth without dips and irregularities and finished to match original finish.
2. Bolt, Screw and Rivet Construction:
  - a. Wherever bolts are used to fasten trim to the paneling and body of equipment or to secure any exposed sheet metal surface, such bolts shall be of the concealed type.
  - b. Stainless steel bolts and screws of the same alloy composition, as the metal to which they are fastened shall be used.
  - c. Wherever threads of bolts and screws occur on the inside of fixtures and are either visible or might come in contact with a wiping cloth, such bolt or screw threads shall be capped with a suitable washer and stainless steel or chrome acorn cap nut.
  - d. If rivets are used to fasten rear paneling to the body of the fixture, such rivets shall be stainless steel. In no case shall iron rivets be used.

G. Sound deadening:

1. Schnee Butyl-Sealant 1/2" wide rope continuously between all frame members and underside of stainless steel table tops, over shelves and under shelves.
2. Tighten stud-bolts for maximum compression of sealant.

- H. Hi-Liting:
1. When hi-lited finish is specifically indicated on Elevations, Details and/or Item Specifications for horizontal edges of stainless steel tops, splashes, raised rolled rims, shelf edges, exposed doors, and handles, the Standard #4 finish shall be ground to #240 grit and shall be polished with compound to ensure mirror finish.
- I. Painting:
1. All fixtures, unless made of stainless steel, shall be finished in gray hammertone enamel, glossy and without blemish.
  2. All materials shall be of the highest quality, air dried and applied in accordance with manufacturer's directions.
  3. Where baked enamel finishes are specified, they shall be oven baked on the fixtures for a minimum of 1-1/2 hours at a minimum temperature of 300 degrees Fahrenheit.
- J. Construction:
1. Table Frames:
    - a. All tubular stands for open base tables or dishtables shall be constructed of 1-5/8" O.D. stainless steel tubing, with stringers and cross braces of the same material.
    - b. All joints between legs and cross braces shall be welded and ground smooth, full 360 degree.
    - c. The top end of legs shall be closely fitted into fully enclosed gusset no less than 3" high, Component Hardware Group, Inc., model #A20-0206 stainless steel or approved equal.
    - d. Gussets to be fully welded to top hat channel reinforcing members, turned so set screw is not visible from the front.
    - e. Crossrails must be supplied to reinforce each leg on all tables not having stainless steel undershelves.
    - f. Legs anchored to gussets at top only and without crossrails are not acceptable except in the case of sinks.
  2. Feet and Counter Legs:
    - a. All tubular legs will be swedged for appearance and close fit to United Show Case model #BF-158, or approved equal, stainless steel bullet shaped foot having a slightly rounded bottom to protect the floor.
    - b. Top of feet to be fitted with a male threaded stem to fit into the legs and provide a total adjustment of 2" without threads being exposed.
    - c. Bottom of tubular leg to be finished off smoothly to provide a sanitary fitting and prevent the accumulation of grease or other debris at this joint.
    - d. Cabinet type fixtures, unless otherwise specified, shall be mounted on 6" high die-stamped sanitary two (2) piece stainless steel counter legs not less than 2-3/4" diameter at top.
    - e. The upper part shall be stamped in a neat design with a flared inverted shoulder and shall be welded to a base plate designed for anchoring to the channel braces below cabinet type fixtures.
    - f. Counter legs shall have an adjustment of 5" to 7" height.
    - g. All legs are to have one (1) piece die-stamped closed 1-3/8" diameter bottoms to ensure sanitation. To be Deering Fabricators, 196 Asa Cash Road, Breman, Georgia 30110 model #DF6HGR or approved equal.
  3. Table Tops (Metal):
    - a. Metal tabletops shall have all shop seams and corners welded, ground smooth and polished. All back welds to be peened and ground smooth.
    - b. All working tops on closed base fixtures shall be reinforced on the underside with a framework of 1-1/2" x 4" x 1-1/2" galvanized hat channels.
    - c. Cross channel closed end members shall be placed at each pair of legs. One angle or channel runner, running lengthwise, shall be provided below tops up to 30" wide.
    - d. All tops shall be reinforced so that there will not be any noticeable deflection and all reinforcements shall be stud welded to the underside of the top.
    - e. No rivets or bolts to be used through tops.

- f. Field joints shall be provided in tops where necessary and are to be located for practical construction, consistent with sizes convenient for shipping and accessibility into the building.
  - g. All metal tops shall be of #14 gauge stainless steel of the quality hereinbefore specified.
  - h. All metal tops shall be turned down as required by uniform design except where adjacent to walls or other pieces of equipment The wall side shall be turned up a minimum of 8" and back 2-1/2" as required by uniform project design or as otherwise specified.
  - i. Ends of these splashes shall be closed.
4. Enclosed Bases:
- a. All enclosed bases or cabinet bodies shall be of seamless #18 gauge stainless steel construction, enclosed on the ends and sides as required and called for under each particular item.
  - b. Ends of body to terminate at front or operator's side in a 2" wide mullion, vertical, completely enclosed. All intermediate mullions shall be completely enclosed.
  - c. The bases shall be reinforced at the top with a framework of 1-1/2" x 1-1/2" x 1/8" galvanized angles, with all corners of said framework mitered and welded solid.
  - d. Bottom of tabletop shall be reinforced with channels and gussets where necessary. Additional angles and channel cross members shall be provided to reinforce shelves and support tops.
  - e. Where sinks or other drop-in equipment occur, bottom sides of such equipment shall be reinforced with an angle crosswise of the table.
  - f. In the case of fixtures fitting against or between walls, the bodies shall be set in 1" or 2" from the wall line, but the tops will extend back to the wall line. This will permit adjustment to wall irregularities.
  - g. A vertical trim strip of the same material as the body shall be provided at each end of the fixture to close the gap between the back edge of the body and the wall or preferably the end of the body shall extend back to the wall line.
  - h. All free vertical corners of enclosed bodies shall be rounded on 3/4" radius and all corners against walls and other fixtures to be square.
  - i. These fixtures shall be fitted with 6" high counter style stainless steel legs as hereinbefore specified.
5. Sliding Doors
- a. Sliding doors shall be constructed of #18 gauge stainless steel. These shall be made pan-shaped, of double thickness, and without trim. Sliding doors shall have 3/4" thick sound deadening fiberglass or celotex between the two thicknesses of metal and shall operate on quiet top-hung ball bearing rollers. Bottom edge of doors shall be square and fitted with a guide groove that rides in a nylon clip at the center point.
  - b. All doors shall be fitted with stops. Doors shall be fitted with pin tumbler type locks, master keyed to other fabricated items if specified under Item Specifications.
6. Hinged Doors:
- a. All hinged doors for cabinet bodies and enclosed bases shall be constructed of #18 gauge stainless steel. They shall be of double pan construction with sound deadening insulation between the two pans. Doors shall be flush mounted without overlap and shall be fitted with semi-concealed stainless steel hinges or concealed torque-spring self-closing hinge assembly.
7. Drawers:
- a. All drawer bodies shall be die-stamped out of one (1) piece of #18 gauge steel material of the type and in the size called for in the Item Specifications. Each drawer body shall sit loosely in a channel frame so it can be lifted out for cleaning.
  - b. All top edges shall be flanged out 1/2".
  - c. All interior horizontal corners are rounded on a 1" radius and all interior vertical corners on a 2" radius.

- d. The supporting frame shall be of welded channel, or material called for in Item Specifications. Drawer face shall be welded to frame so that no screws or rivets will be exposed on the face.
  - e. The face shall be of #16 gauge stainless steel insulated die-formed with full-length sanitary handle.
  - f. Drawer slides to be Component Hardware Group, Inc., model #S52-series heavy-duty stainless steel full extension type and are to be mounted on the channel frame and fitted with ball bearing stainless steel rollers. Slides and frame shall be reinforced such that the drawer will support a dead weight of 200 pounds when fully extended.
  - g. Adjustable stops shall be provided for each drawer at the fully opened position.
  - h. Drawers on open base tables shall be fully enclosed in #18 gauge steel housing of material as identified in the Item Specifications.
  - i. Locks, where required, shall be cylinder lock assembly. No screws, bolts, or fastening devices penetrating the sides of bottom of the drawer body will be permitted.
  - j. Drawer constructed similar to Component Hardware Group, Inc. model #S90-0020-N.
8. Undershelves:
- a. Unless otherwise specifically called for to be removable, all open base table undershelves to be #16 gauge stainless steel, notched around table legs and fully welded. All edges to have 1-1/2" straight turn down with 1/2" turn back on 15-degree angle, at bottom edge. Underside of shelf to have #12 gauge galvanized hat channel bracing.
  - b. Undershelves specified to be removable shall be #18 gauge stainless steel, built in such a way as to be easily removable, using rolled turn down at front and back and at end section so that shelving will fit perfectly over the tubular frame. At end sections or otherwise where table legs occur, corners at legs are to be notched out to form a perfect fit around legs. At intersections of shelving, not over 28" long, shelving to run straight down 1" for strength. If required by width, shelves to have additional angle bracing. All outside turn down corners of removable undershelves to have rounded edges.
9. Interior Shelves:
- a. Removable interior shelves in cabinet bodies, enclosed bases and overhead cabinets, shall be of #18 gauge stainless steel. Such shelves as called for shall be made in removable sections and rest in 1-1/2" x 1-1/2" x 1/8" stainless steel angle frame, having all horizontal corners coved and constructed in full accordance with N.S.F. requirements.
  - b. Stationary interior shelves shall have 2" turn-up on back and ends and shall have joint between shelf turn-up and the body sealed and ground smooth to form a one-piece interior free of any crevices. The front edge shall be flanged down 1-1/2" and under 1/2" and finished with "Z" bar forming completely enclosed edge for maximum strength and sanitation. Shelves further braced with longitudinal centered 1-1/2" x 1-1/2" x 1/8" angle.
10. Elevated Shelves:
- a. All elevated shelves shall be of #18 gauge stainless steel. All edges shall be rolled or turned down 1-1/2", except where shelves are adjacent to walls or other fixtures where they shall be coved up 1-1/2". All outside corners of rolled edged shelves shall be spherical. All exposed ends and backs of shelves shall be capped.
  - b. Shelves shall be mounted on stainless steel wall brackets of tubular, gusset or angle construction as called for in the item specifications.
  - c. Shelves may be mounted on 1" O.D. tubular stainless steel tubing with one upright at each corner of the shelf and in center where necessary. Uprights to be fastened to underside of shelf by means of stud-welded bolts and tabletops with concealed fasteners.
  - d. Cantilever supports when called for shall have brackets secured to 1-5/8" O.D. stainless steel tubular standards at the back edge of the fixture. These standards are to be carried through the top and are to be securely anchored to the lower framework. Where indicated on drawings, provide Component

- Hardware #A16-0206 welded sleeves where standards penetrate backsplashes.
11. Sinks:
- a. All sinks shall be of the size and shape as per plan and constructed of #14 gauge stainless steel. The backs, bottoms and fronts shall be formed on one continuous sheet with the ends welded into place. Partitions for compartment sinks shall be of the same material, electrically welded in place.
  - b. Sinks shall have all corners both vertical and horizontal coved on a 3/4" radius electrically welded, ground smooth and polished. Solder in filleted corners will not be acceptable.
  - c. Partitions in coved corner sinks shall be of double thickness with a half round 1-1/2" top edge.
  - d. Top edges of sinks at front and ends, except where fitted with integral type drainboards, shall be furnished with a 1-1/2" die-formed integral sanitary semi-roll rim.
  - e. Across the back of all sinks, unless otherwise specified, there shall be a 10" high splash back measured from rolled edge or approximately 12" from working surface, turned back across the top 2", with ends enclosed.
  - f. Unless otherwise specified, two (2) faucet holes on 8" centers are to be provided over the centerline of partitions between compartments, 2-1/2" down from the top of the splash.
  - g. Bottom of each compartment shall be pitched or creased to the center drain, and shall be provided with cast brass quick opening drain valve with removable stainless steel strainer equal to Fisher #10707 twist handle drain. Handle to have front stainless steel welded clip support to sink.
  - h. Sinks shall be mounted on 1-5/8" O.D. stainless steel tubing legs, and fitted with stainless steel bullet shaped adjustable feet. Legs shall be fitted with die-formed enclosed sanitary closed stainless steel gussets welded to the underside of the sink.
  - i. All freestanding sinks shall be 37" high to the top of the front edge and 47" high to the top of the splash. Sink depth from top of front edge to bottom of tub shall be 14" or as otherwise specified. Lengths and widths given shall be overall.
12. Sink Inserts:
- a. Sink inserts shall be of one (1) piece deep-drawn construction in the size, material and gauge called for in the Item Specifications.
  - b. Sinks shall be welded integral with counter tops with no lap between.
  - c. Sink will be fitted with a cast brass quick opening drain valve with removable stainless steel strainer as specified or crumb cup drain (Component Hardware #E38-1012) as specified in Item Specifications.
  - d. Where sink bowls are exposed, the exterior shall also be polished to a #4 finish.
13. Sink Drainboards:
- a. Sink drainboards shall be constructed of same material as the sinks and shall be welded integral to same.
  - b. Drainboards shall have 2-1/2" high rims with die-formed integral rolled edges to match sink edges.
  - c. Front, end, and corners shall be coved on 3/4" radius, as called for in sink specifications, electrically welded, ground, and polished smooth. Solder filleting of these corners will not be accepted.
  - d. Drainboards shall be pitched approximately 1/8" per foot to properly drain into the sink.
14. Dishtable Tops:
- a. These tops shall be #14 gauge stainless steel with all free edges rolled up 3" and finished with 1-1/2" diameter rolled rim and having rounded corners. Edges of dishtables next to high fixtures or walls shall cove up 10" and roll back 2" on 3/4" radius (or as design dictates).
  - b. All tables shall slope, and slope shall be built in maintaining vertical crown where adjustable slope is not possible.
  - c. All corners of tops shall be coved on 3/4" radius.

- d. Tables to be braced with 1" x 4" x 1" x #12 gauge galvanized hat channels with stainless steel exposed closed ends, between each pair of legs and down center line of top.
  - e. Leg gusset to weld to this hat channel and so masked off when sound-deadening material is applied. Gussets to be positioned so that "set-screw" hole is not visible.
  - f. Where tops fit to and into dish machines, they shall turn down into, extend up to, and fit watertight thereto.
  - g. On exit side of conveyor machines, tables to be provided with 10" high x 12" long sloping integral splashguard constructed of #14 gauge stainless steel (or as design dictates).
  - h. Silicon filling of gaps caused by poor fit will not be acceptable.
15. Counter Style Enclosed Units:
- a. Where these custom fabricated units occur, framing is to be of 1-1/2" x 1-1/2" x 1/8" galvanized angles.
  - b. At corners, metal is to be mitered; at other meeting points, metal is to be butted and will conform to the shape of the top and bottom frame metal and then to be solid welded, ground and polished smooth, and repainted as specified.
  - c. Provide top and bottom framing for each counter food pan, cold pan, coffee urn, ice cream unit, ice bin, dish dispenser, whether a drop-in unit or a cutout for a portable unit.
  - d. Where plate shelves occur, frame horizontally 8-1/2" back from counter edge or as design dictates, and at bottom of shelf at counter edge.
  - e. At cut-outs for roll-in equipment, provide top and bottom angles crosswise of the counter 8" above the finished floor.
  - f. Base of counter shall be as specified with stainless steel interior shelving constructed as specified.
  - g. Counter shall be mounted on approved stainless steel feet as specified.
  - h. Top of counter to be of #14 gauge Type #304 stainless steel as called for in these specifications. Metal is to turn down at front and back a full 2" from the top of the top metal or as design dictates.
  - i. Such units as are to be built in, as an integral part of the counter top will be shown in the Item Specifications. Wherever openings occur for roll-in equipment, the sizes of such openings are to be such as will accommodate the portable equipment plus such protective bumpers as will be required.
  - j. Unless counters are specified with plate shelves, metal on working side of counter is to be turned down flush with the bottom of built-in units and back a minimum of 1-1/2" to cover such structural angles as are required.
  - k. Front of counter and ends (where exposed) shall be stainless steel, laminated plastic, or other material as required by the Item Specifications.
  - l. All display glass shelving shall be set into #18 gauge stainless steel formed channels. Top shelves shall be of the same width as the shelf below. All shelves shall be provided with appropriate sneeze or breath guards having stainless steel protective edges.
  - m. The shelves over bread and or pastry sections shall be glass. (All shelving shall be 1/4" polished plate glass and protected with stainless steel channel edging where specified). The shelves over salad sections shall be glass.
  - n. The supporting channels for all glass shelving shall have rubber isolation "buttons" secured to framework of supporting angles.
  - o. Serving shelf over hot food sections and/or bread sections shall be #18 gauge stainless steel with lights for the length of the sections.
  - p. All display shelving will have lights controlled by switch mounted in base of counter on operator's side. Lights to be of manufacturer and design approved by Consultant and located as design dictates. All lights are to have bulbs covered with plastic shields to meet requirements of local health department.
  - q. Such changes as are required in this general counter specification are described in the Item Specifications. The counter or counters shall be internally wired complete by the Food Service Equipment Supplier.
  - r. Electric wiring as required shall be installed in such a way as to meet requirements of the Electrical Code of the job location.

- s. Equipment Contractor is cautioned that it will be his responsibility to ascertain requirements of the city and local governing codes that will govern the requirements as described in the specifications:
16. Trim Strips:
- a. Trim is not an acceptable substitute for accuracy and neatness. When the Consultant elects to accept a trim strip in lieu of rebuilding an item, it is the responsibility of the Food Service Equipment Supplier to provide same at no cost to the Owner.

### PART 3 - EQUIPMENT

#### 3.1 EQUIPMENT

- A. Manufacturer's names and model numbers are for establishing standards of quality, size and finish required, representing Owner's preference and basis of bid. Alternate Manufacturer's listed are acceptable only if the specific product can evidence compliance with the specified Item and the Contract Documents. Bidders are cautioned to examine the electrical and mechanical Contract Documents plans to determine if equipment other than prime, require changes in utilities, space, etc. If changes are required, the bidder shall pay all Architectural, Engineers and Food Facilities Consultant additional cost of necessary changes to Construction Documents that may occur due to accepted alternate. Equipment is listed hereinafter with same Item numbers as shown on the Contract Drawings:

#### MARCUS HS

ITEM #101: DOUBLE COMBI OVEN: Provide one (1) double stacked electric combi oven, Rational, model No. ICP 6-FULL/6-FULL, 208V, 3Ph

iCombi Pro 6-Full size combi ovens, double stacked  
Capacity twelve (12) 18"x26" sheet pan, or twenty four (24) 12"x20" steam pan  
Three (3) stainless steel grids per oven compartment  
Intelligent cooking system with four (4) assistants; iDensityControl, iCookingSuite, iProductionManager, & iCareSystem  
Six (6) operating modes, five (5) cooking methods, three (3) manual operating modes  
85 degrees to 572 degrees F temperature range  
Quick clean, care control, eco-mode, 6-point core temperature probe, retractable hand shower  
Ethernet interface, Wi-Fi enabled  
Include two (2) buckets of Active Green Cleaner & two (2) buckets of Care tabs.  
Provide Stand I Stationary Oven stand for stacked ovens iCombi 6 on iCombi 6.

ITEM #102: WALK-IN COOLER & FREEZER: Provide one (1) two-compartment, pre-fabricated ThermoKool, factory installed complete working assembly, including:

- A. Special sized, 4" thick sections assembled as indicated on drawings, 8'-2" high above finished floor. K.E.C. to coordinate height of assembly with existing building conditions. Corner and "T" panels shall be matching one-piece construction including 1/2" minimum radius at all inside vertical corners. Assemble using standard cam fasteners and sealed with PVC double bubble gasket at interior and exterior of panel edges.
  1. Interior face of wall panels shall be clad with 0.040" stucco white finish.
  2. Interior face of ceiling panels shall be clad with 0.040" smooth white finish.
  3. Exterior exposed face of wall panels shall be clad with #20 gauge stainless steel with 1/8" aluminum treadplate to 36" above finished floor per plan.
  4. Exterior unexposed face of panels shall be clad with 0.40" smooth aluminum finish.
  5. Trim to walls and ceiling where required, with same material as exposed exterior, using hidden fasteners per detail on drawings. Pop rivets will not be accepted. Reference details on drawings.
- B. Doors shall be 36" x 80" high with 14" x 24", heated triple pane view ports and foot treadles. Exterior to match exterior finish and interior to match interior finish. Metal joints to be welded, ground, and polished. Interior and exterior jamb guards of 1/8" aluminum tread plate 36" high. Interior and exterior kickplates of 1/8" tread plate 36" high. Cooler and Freezer doors to be provided with 120 volt dedicated circuit heater cable around parameter including heated threshold. Provide three (3) springloaded, chrome-plated hinges, latch with interior safety release

and cylinder lock. Doors to have Kason model #1094 heavy-duty door closers or equal. Provide CCI clear view swinging door assembly on both cooler and freezer door.

C. Cooler & Freezer vaults to have 4" thick factory floor sections with integral ramp. Both the floor panels and ramp are to be covered with 1/8" aluminum treadplate. All corners are to be covered to meet NSF requirements. (see details). Kitchen Equipment Contractor to furnish vapor barrier film to General Contractor for installation.

D. Kason model 1809LED L.E.D. light fixtures and optic globe (or equal) in each compartment (See Electrical Requirements Plan for quantity).. Manufacturer to furnish fixtures for installation by Electrical Contractor. All conduit is to be imbedded in vault walls and/or ceiling panels. Exposed conduit will NOT be accepted. Extend conduit to J-Box located on top of ceiling panels.

1. Factory mount in head section, electrically heated vacuum pressure relief vent, dedicated circuit. Kason model #1832 (or approved equal) flush mounted. Mount away from direct air stream of coil.
  2. Furnish sufficient quantity of 1/2" diameter nylon threaded rods with stainless steel nuts and washers to support refrigeration coils.
  3. Furnish sufficient quantity of 5-inch diameter stainless steel escutcheon plates to dress off utility penetrations by other trades.
  4. 5" Dial thermometers, flush mounted at 54" above finished floor. (one for each compartment) All conduit to be concealed in the wall panel. Extend conduit to J-Box located on top of ceiling.
  5. Two (2) Modularm model #75LC factory installed temperature multi-monitors located as per drawings mounted at 54" A.F.F. on the strike side of each door complete with model IP-1 timed lighting and panic alarm control modules with illuminated push buttons mounted at 48" A.F.F. on the strike side of the door on the interior of each compartment. Also provide model MD-1 motion detectors at 88" A.F.F. above the door on the interior of each compartment to automate light control functions. Alarm system to be interconnected to the existing building alarm system by the General Contractor. K.E.C. to coordinate installation.
  6. One (1) Edwards Model no. 340 A-N5-120 V.A.C., emergency alarm bell at the exterior of the freezer above the door. U/A weather proof switch to be mounted in the interior of the freezer compartment at 42" A.F.F.
- E. PVC plastic conduit between interior and exterior of vaults. Pre-wire door defrosters to top of Cooler/Freezer vaults for final connection by the Electrician.
- F. Vaults are to be installed by Horton Refrigeration. Manufacturer to check the finished work of the Electrician, Plumber, and Refrigeration Installer, in particular the vault wall penetration and sealing of light fixtures.
- G. Provide one (1) year free service including parts, labor and a minimum of ten (10) year warranty on walk-in panels.
- H. A specific product manufactured by the following listed manufacturer is acceptable only if the specific product can evidence compliance with the specified Item and the Contract Documents: American Panel and Masterbilt.

ITEM #103A: REMOTE REFRIGERATION SYSTEM: Provide one (1) Refrigerated Design Technologies, air-cooled refrigeration system model ZS1-02Z-CT3-AST\*J088, complete working assemblies, including:

- A. Walk-in Cooler:
1. One (1) Model No. BEC0130 — evaporator coil, adjusted to + 36° F.
  2. One (1) Model No. ZS11KAE (1.5 HP) condensing unit.
- B. Walk-in Freezer:
1. One (1) Model No. BEL0130 - evaporator coil, adjusted to — 10°F.
  2. One (1) Model No. ZF13K4E (4.0 HP) condensing unit.
  3. Refer to Architectural and Engineering drawings for final location of remote unit.
  4. Freezer coil to be controlled and demand defrosted by RDT "Eco-Smart" controller.
- C. Pre-wired controls and pre-piped refrigeration accessories. Stainless steel exterior weather removable housing. At each evaporator, Kitchen Equipment Supplier is to provide electrical disconnect on interior of vaults. Refrigeration installer to provide a tee fitting with cleanout plug and brass union fitting on each evaporator. Do not reduce fittings at drain pan connection. Compressors to have crankcase heaters, main power fused disconnects and winter controls, including fan cycling switches.
- D. Size each circuit to balance condensing units and connect to condensing units and coils. Pressure stabilizing valve and by-pass manifold on each refrigeration circuit.
- E. Walk-ins are to be running and adjusted a minimum of 24 hours prior to the loading of product. Freezer shall be cooled down in stages over 12-hour period. First 6 hour stage to 32° F., then 6 hours to 0° F., finally to -10° F.
- F. Type "K" or Type "L" copper refrigerant lines with brazed silver solder joint fittings as required by application. Run refrigerant lines from condensing units to coil penetrations in top of vaults. All to be neat and of highest caliber workmanship. Seal all penetrations with Permagem to seal air out. See escutcheon and penetration details.
- G. R-448A refrigerant charge for both freezer and cooler units.
- H. Armstrong Armaflex 1" insulation to prevent condensation on all refrigeration lines. All joints to be taped and glue sealed. No slit tubing to be used. Fiberglass insulation to be provided if lines are run in air return plenums or

if required by local codes. Armstrong Armaflex line insulation on exterior of buildings to be covered with ITW Pabco/Childers (or equal) Aluminum Roll Jacketing manufactured from alloys 3105 and 3003, conforming to ASTM B-209 designation with a minimum thickness of .016". This is to help prevent deterioration due to sun exposure.

I. Type "L" supported hard copper drain lines with brazed silver solder joints sized as per plan from drain pans below coils to drains, as per plans, furnished and run by Refrigeration System Installer. Provide "Tee" fittings with cleanout plug and brass union fitting on each evaporator. Do not reduce fittings at drain pan connection. Paint all exposed interior drain lines using "All-Weather" aluminum paint. Exterior exposed lines and "P" trap to be chromed. Drain line from freezer coil shall be wrapped with "EZ" heat cable of length as required, provided and installed by Refrigeration Systems Installer and final electrical connection Electrical Contractor.

J. Electrical Contractor shall wire through defrost control between condensing units and coils and heater cables in freezer. Electrical Contractor shall connect all light and power connections to controls, motors and lights from rough-in connecting locations on top of vaults. No conduit shall be run exposed on interior of vaults except that required for connection. Electrician to seal all conduit interiors with sealant or foamed urethane after wires are run, to seal out air. If required, fire protection installer to seal all penetrations in the same manner.

K. RDT Refrigeration Company to check the work of the Electrician and Plumber, in particular the vault wall penetrations and light fixture sealing, and provide one (1) year free service, including parts and labor on refrigeration system and five (5) year warranty on condensing units.

L. Refrigeration system shall be installed by factory trained and certified installer selected from the qualified installer list in Part 4 – Execution at the end of this specification.

ITEM #103B: REMOTE REFRIGERATION SYSTEM: Provide one (1) Refrigerated Design Technologies, air-cooled refrigeration system model ZS1-01Z-CT3-AST\*J088, complete working assemblies, including:

A. Walk-in Freezer:

1. One (1) Model No. BEL0100 - evaporator coil, adjusted to  
— 10°F.

2. One (1) Model No. ZF11K4E (3.5 HP) condensing unit.

3. Refer to Architectural and Engineering drawings for final location of remote unit.

4. Freezer coil to be controlled and demand defrosted by RDT "Eco-Smart" controller.

C. Pre-wired controls and pre-piped refrigeration accessories. Stainless steel exterior weather removable housing. At each evaporator, Kitchen Equipment Supplier is to provide electrical disconnect on interior of vaults. Refrigeration installer to provide a tee fitting with cleanout plug and brass union fitting on each evaporator. Do not reduce fittings at drain pan connection. Compressors to have crankcase heaters, main power fused disconnects and winter controls, including fan cycling switches.

D. Size each circuit to balance condensing units and connect to condensing units and coils. Pressure stabilizing valve and by-pass manifold on each refrigeration circuit.

E. Walk-ins are to be running and adjusted a minimum of 24 hours prior to the loading of product. Freezer shall be cooled down in stages over 12-hour period. First 6 hour stage to 32° F., then 6 hours to 0° F., finally to -10° F.

F. Type "K" or Type "L" copper refrigerant lines with brazed silver solder joint fittings as required by application. Run refrigerant lines from condensing units to coil penetrations in top of vaults. All to be neat and of highest caliber workmanship. Seal all penetrations with Permagum to seal air out. See escutcheon and penetration details.

G. R-448A refrigerant charge for both freezer and cooler units.

H. Armstrong Armaflex 1" insulation to prevent condensation on all refrigeration lines. All joints to be taped and glue sealed. No slit tubing to be used. Fiberglass insulation to be provided if lines are run in air return plenums or if required by local codes. Armstrong Armaflex line insulation on exterior of buildings to be covered with ITW Pabco/Childers (or equal) Aluminum Roll Jacketing manufactured from alloys 3105 and 3003, conforming to ASTM B-209 designation with a minimum thickness of .016". This is to help prevent deterioration due to sun exposure.

I. Type "L" supported hard copper drain lines with brazed silver solder joints sized as per plan from drain pans below coils to drains, as per plans, furnished and run by Refrigeration System Installer. Provide "Tee" fittings with cleanout plug and brass union fitting on each evaporator. Do not reduce fittings at drain pan connection. Paint all exposed interior drain lines using "All-Weather" aluminum paint. Exterior exposed lines and "P" trap to be chromed. Drain line from freezer coil shall be wrapped with "EZ" heat cable of length as required, provided and installed by Refrigeration Systems Installer and final electrical connection Electrical Contractor.

J. Electrical Contractor shall wire through defrost control between condensing units and coils and heater cables in freezer. Electrical Contractor shall connect all light and power connections to controls, motors and lights from rough-in connecting locations on top of vaults. No conduit shall be run exposed on interior of vaults except that required for connection. Electrician to seal all conduit interiors with sealant or foamed urethane after wires are run, to seal out air. If required, fire protection installer to seal all penetrations in the same manner.

- K. RDT Refrigeration Company to check the work of the Electrician and Plumber, in particular the vault wall penetrations and light fixture sealing, and provide one (1) year free service, including parts and labor on refrigeration system and five (5) year warranty on condensing units.
- L. Refrigeration system shall be installed by factory trained and certified mechanic subject to approval of Consultant.

ITEM #104 WALK-IN FREEZER: Provide one (1) compartment pre-fabricated ThermoKool, factory installed complete working assembly, including:

A. Special sized, 4" thick sections assembled as indicated on drawings, 8'-2" high above finished floor. K.E.C. to coordinate height of assembly with existing building conditions. Corner and "T" panels shall be matching one-piece construction including 1/2" minimum radius at all inside vertical corners. Assemble using standard cam fasteners and sealed with PVC double bubble gasket at interior and exterior of panel edges.

1. Interior face of wall panels shall be clad with 0.040" stucco white finish.
2. Interior face of ceiling panels shall be clad with 0.040" smooth white finish.
3. Exterior exposed face of wall panels shall be clad with #20 gauge stainless steel with 1/8" aluminum treadplate to 36" above finished floor per plan.
4. Exterior unexposed face of panels shall be clad with 0.40" smooth aluminum finish.
5. Trim to walls and ceiling where required, with same material as exposed exterior, using hidden fasteners per detail on drawings. Pop rivets will not be accepted. Reference details on drawings.

B. Door shall be 36" x 80" high with 14" x 24", heated triple pane view ports and foot treads. Exterior to match exterior finish and interior to match interior finish. Metal joints to be welded, ground, and polished. Interior and exterior jamb guards of 1/8" aluminum tread plate 36" high. Interior and exterior kickplates of 1/8" tread plate 36" high. Cooler and Freezer doors to be provided with 120 volt dedicated circuit heater cable around parameter including heated threshold. Provide three (3) springloaded, chrome-plated hinges, latch with interior safety release and cylinder lock. Doors to have Kason model #1094 heavy-duty door closers or equal. Provide CCI clear view swinging door assembly on both cooler and freezer door.

C. Freezer vault to be with 4" thick reinforced super floor sections with 3/4" marine grade plywood foamed in place at the factory with DURAFLOOR and clad with 1/8" aluminum treadplate with coved corners to meet NSF requirements, installed in recessed pit as shown on plans and details. Kitchen Equipment Contractor to furnish vapor barrier film to General Contractor for installation.

D. Kason model 1809LED L.E.D. light fixtures and optic globe (or equal) in each compartment (See Electrical Requirements Plan for quantity).. Manufacturer to furnish fixtures for installation by Electrical Contractor. All conduit is to be imbedded in vault walls and/or ceiling panels. Exposed conduit will NOT be accepted. Extend conduit to J-Box located on top of ceiling.

1. Factory mount in head section, electrically heated vacuum pressure relief vent, dedicated circuit. Kason model #1832 (or approved equal) flush mounted. Mount away from direct air stream of coil.
2. Furnish sufficient quantity of 1/2" diameter nylon threaded rods with stainless steel nuts and washers to support refrigeration coils.
3. Furnish sufficient quantity of 5-inch diameter stainless steel escutcheon plates to dress off utility penetrations by other trades.
4. 5" Dial thermometers, flush mounted at 54" above finished floor. (one for each compartment) All conduit to be concealed in the wall panel. Extend conduit to J-Box located on top of ceiling.
5. Two (2) Modularm model #75LC factory installed temperature multi-monitors located as per drawings mounted at 54" A.F.F. on the strike side of each door complete with model IP-1 timed lighting and panic alarm control modules with illuminated push buttons mounted at 48" A.F.F. on the strike side of the door on the interior of each compartment. Also provide model MD-1 motion detectors at 88" A.F.F. above the door on the interior of each compartment to automate light control functions. Alarm system to be interconnected to the existing building alarm system by the General Contractor. K.E.C. to coordinate installation.
6. One (1) Edwards Model no. 340 A-N5-120 V.A.C., emergency alarm bell at the exterior of the freezer above the door. U/A weather proof switch to be mounted in the interior of the freezer compartment at 42" A.F.F.

E. PVC plastic conduit between interior and exterior of vaults. Pre-wire door defrosters to top of Freezer vault for final connection by the Electrician.

F. Vaults are to be installed by Horton Refrigeration. Manufacturer to check the finished work of the Electrician, Plumber, and Refrigeration Installer, in particular the vault wall penetration and sealing of light fixtures.

G. Provide one (1) year free service including parts, labor and a minimum of ten (10) year warranty on walk-in panels.

H. A specific product manufactured by the following listed manufacturer is acceptable only if the specific product can evidence compliance with the specified Item and the Contract Documents: American Panel and Masterbilt.

ITEM #105: POINT OF SALE COUNTER: Provide One (1) Mod-U-Serve model MCT-CRSG cashier stand module, including the following design specifications and components, per:

Mobile module, size, and shape per drawings. Additional flat top space allocated for tray storage and tray pass.  
14-gauge, type 304 series stainless steel top with 4" turndown on all sides and sound deadening applied between top and frame. Countertop to be height of 36".  
16-gauge, type 304 series stainless steel formed end panels with top and bottom horizontal members of 16-gauge, type 304 stainless steel. 18-gauge, type 304 series stainless steel body panels. 18-gauge, type 304 series stainless steel undershelves with 18" high ends and 6" high back.  
12" deep x 3CM manufactured stone trayslide on fully welded stainless steel brackets with LED trayslide lights. Trayslide to be height of 34". Selection of stone by LISD.  
Cashier module to have a stainless-steel knee recess area with LED light, and fixed CPU shelf.  
Raised removable tile-front panels, selection by LISD. Tile by Mod-U-Serve.  
Below POS to have hinged tile access door with latching lock.  
One (1) grommeted opening with two (2) 120-volt duplex outlets. One (1) CAT-5 data receptacle. One (1) stainless steel cash drawer on slide out glides with cylinder lock.  
6" stainless steel legs with adjustable bullet feet, and stainless steel kickplate.

ITEM #106: FLAT TOP MODULE: Provide One (1) Mod-U-Serve model MCT-FT5-MOD flat top serving line module, including the following design specifications and components, per:

Mobile module, size, and shape per drawings. Additional flat top space allocated for tray storage and tray pass.  
14-gauge, type 304 series stainless steel top with 4" turndown on all sides and sound deadening applied between top and frame. Countertop to be height of 36".  
16-gauge, type 304 series stainless steel formed end panels with top and bottom horizontal members of 16-gauge, type 304 stainless steel. 18-gauge, type 304 series stainless steel body panels. 18-gauge, type 304 series stainless steel undershelves with 18" high ends and 6" high back.  
Raised removable tile-front panels, selection by LISD. Tile by Mod-U-Serve.  
12" deep x 3CM manufactured stone trayslide on fully welded stainless steel brackets with LED trayslide lights. Trayslide to be height of 34". Selection of stone by LISD.  
One (1) undercounter 120-volt duplex outlets for future use.  
6" stainless steel legs with adjustable bullet feet, and stainless steel kickplate.

ITEM #107: HOT/COLD RECESS COUNTER: Provide One (1) Mod-U-Serve model MCT-FT2 -MOD hot/frost top module, including the following design specifications and components, per:

Mobile module, size, and shape per drawings.  
14-gauge, type 304 series stainless steel top with 4" turndown on all sides and sound deadening applied between top and frame. Countertop to be height of 36".  
16-gauge, type 304 series stainless steel formed end panels with top and bottom horizontal members of 16-gauge, type 304 stainless steel. 18-gauge, type 304 series stainless steel body panels. 18-gauge, type 304 series stainless steel undershelves with 18" high ends and 6" high back.  
Raised removable tile-front panels, selection by LISD. Tile by Mod-U-Serve.  
12" deep x 3CM manufactured stone trayslide on fully welded stainless steel brackets with LED trayslide lights. 10" deep x 3CM manufactured stone trayslide on fully welded stainless steel brackets with LED trayslide lights. Trayslide to be height of 34". Selection of stone by LISD.  
Double tiered, Mod-U-Serve Elite series sneezeguards with adjustable front pivoted tempered half-height glass and tempered glass overshef, per tier. 1" OD round, fully polished stainless-steel posts anchored to counter framing. UL listed LED showcase lights with stainless steel supports.  
One (1) counter-height MCT-DI -HCFSP1 - SLIM, one (1) - 18" x 26" sheet pan capacity, mechanically heated & cooled, 1/2" recessed stainless steel hot & frost top with self-contained refrigeration. Refrigeration to be slide-out for ease of maintenance. One (1) elevated MCT-DI-HCFSP1-SLIM - OS, one (1) - 18" x 26" sheet pan capacity, mechanically heated & cooled, 1/2" recessed stainless steel hot & frost top with self-contained refrigeration.  
6" stainless steel legs with adjustable bullet feet, and stainless steel kickplate.

ITEM #108: HOT FOOD COUNTER: Provide One (1) Mod-U-Serve model MCT-FT6-MOD flat top serving line module, including the following design specifications and components, per:

Mobile module, size, and shape per drawings. Additional flat top space allocated for tray storage and tray pass. 14-gauge, type 304 series stainless steel top with 4" turndown on all sides and sound deadening applied between top and frame. Countertop to be height of 36".

16-gauge, type 304 series stainless steel formed end panels with top and bottom horizontal members of 16-gauge, type 304 stainless steel. 18-gauge, type 304 series stainless steel body panels. 18-gauge, type 304 series stainless steel undershelves with 18" high ends and 6" high back.

Raised removable tile-front panels, selection by LISD. Tile by Mod-U-Serve.

12" deep x 3CM manufactured stone trayslide on fully welded stainless steel brackets with LED trayslide lights. Trayslide to be height of 34". Selection of stone by LISD.

One (1) Mod-U-Serve model CF4, four (4) 12" x 20" pan capacity, cold wells provided by Mod-U-Serve. Unit provided with a single-tier Elite sneezeguard with half-height front glass. Elite guards provided per general material specifications.

One (1) Hot-Cold module with one (1) 12x20" pan capacity, provided by Mod-U-Serve. Unit provided with a single-tier Elite sneezeguard with half-height front glass. Elite guards provided per general material specifications.

Refrigeration to be slide out for ease of maintenance.

One (1) stainless steel slanted silverware housing with one (1) Vollrath model 30582 shot gun pan provided per housing.

One (1) 120-volt receptacle with NEMA DR 5-15P GFCI for adjacent milk cooler.

6" stainless steel legs with adjustable bullet feet, and stainless steel kickplate.

ITEM #109: REFRIGERATED MERCHANDISER IN FLAT TOP COUNTER: Provide one (1) Mod-U-Serve model MCT-FT3 flat top serving line module, including the following design specifications and components, per:

Mobile module, size, and shape per drawings.

14-gauge, type 304 series stainless steel top with 4" turndown on all sides and sound deadening applied between top and frame. Countertop to be height of 36".

16-gauge, type 304 series stainless steel formed end panels with top and bottom horizontal members of 16-gauge, type 304 stainless steel. 18-gauge, type 304 series stainless steel body panels. 18-gauge, type 304 series stainless steel undershelves with 18" high ends and 6" high back.

Raised removable tile-front panels, selection by LISD. Tile by Mod-U-Serve.

12" deep x 3CM manufactured stone trayslide on fully welded stainless steel brackets with LED trayslide lights. Trayslide to be height of 34". Selection of stone by LISD.

One (1) Structural Concepts Reveal Refrigerated Service Slide In Counter Case with three (3) levels of removable and adjustable glass shelving, model # NE3635RSV, provided by Mod-U-Serve.

6" stainless steel legs with adjustable bullet feet, and stainless steel kickplate.

**\*RESPONSIBILITIES OF INVOLVED PARTIES FOR SERVING COUNTER REPLACEMENT:**

Serving Line Manufacturer:

Mod-U-Serve, including manufacturer provided or sourced components, is responsible for the fabricating of the product with proper workmanship, void of errors, per the written specification and signed submittal drawings, per the scope of work timeframe defined.

Mod-U-Serve is to deliver, install and make all serving lines and buyout equipment ready for final electrical connections (electrical connections by the contractor of choice of Lewisville ISD).

Mod-U-Serve is responsible to remove all installation related trash and debris from the jobsite.

Upon final completion of the installation of the serving line, it is the responsibility of the Mod-U-Serve sales representative to provide a thorough educational demonstration covering operation, cleaning, and preventative maintenance.

Successful Bidding Foodservice Equipment Dealer

A representative of the successful bidding dealer, in conjunction with the Manufacturer's Rep, is to coordinate with Lewisville ISD the signing of approval drawings in person, including all material finishes.

Lewisville ISD:

Removal and relocation of existing serving lines is to be done by the successful bidder with the Owner having first right of salvage.

Hiring the electrical contractor for the electrical scope of work, including all rough-ins and final electrical connections is to be done by successful bidder.  
Lewisville ISD IT department or others are responsible to run CAT-5 to the POS and connect it to the data receptacle. The Lewisville ISD IT department or others are also responsible for both the POS and POS connections.  
Any asbestos testing and/or asbestos abatement is the responsibility of others.

ITEM #111: REACH-IN HEATED CBAINET : Provide three (3) Utility model HC-60-SS-4S-D reach-in heated cabinet, including the following:

208V-1ph-direct connection  
Stainless steel exterior sides, stainless steel top mount housing, stainless steel doors.  
Heavy duty 6" adjustable stainless steel legs.  
Doors to be solid front, split.  
Doors to be self-closing with stay-open feature at 120 degrees.  
Full length one piece handle with grip.  
Digital temperature control between 165-175 degrees F.  
Reach-in heated cabinets to replace existing mobile heated cabinets.

ITEM #112: REFRIGERATED DISPLAY CASE : Provide one (1) Structural Concepts, model NR3655RSV air curtain reach-in refrigerated display case, including:

120V-1ph  
Stainless steel exterior, stainless steel interior  
6" high stainless steel legs  
LED 3000K lights with frosted lens  
Rear loading doors  
Roll-down night cover  
Three (3) interior shelves, lighted  
Bottom deck to accommodate milk crates.

ITEM #113: REFRIGERATED DISPLAY CASE : Provide two (2) Structural Concepts, model NR6055RSV air curtain reach-in refrigerated display case, including:

120V-1ph  
Stainless steel exterior, stainless steel interior  
6" high stainless steel legs  
LED 3000K lights with frosted lens  
Rear loading doors  
Roll-down night cover  
Three (3) interior shelves, lighted  
Bottom deck to accommodate milk crates.

#### PART 4 – EXECUTION

##### 4.1 INSPECTION:

- A. Before beginning the installation of foodservice equipment, the spaces and existing conditions shall be examined by the foodservice equipment supplier and any discovered deficiencies or discrepancies noted shall be reported to the Architect in writing.
- B. Beginning installation shall constitute acceptance of the area.

##### 4.2 PREPARATION:

- A. Foodservice equipment drawings are diagrammatic and intended to show layout, arrangement, mechanical and electrical requirements.

- B. Make and check all measurements at the building before beginning fabrication. Coordinate measurements and dimensions with rough-in and space requirements.

#### 4.3 INSTALLATION:

- A. Equipment shall be uncrated, fully assembled and set level in position for final connections. Parts shipped loose but required for connection shall be properly tagged and shall be accompanied by the necessary installation instructions.
- B. Provide a competent, experienced foreman to supervise installation and final connections.
- C. Division 22 shall clean and flush all supply and drain lines before final connections.
- D. Water inlets shall be located above the positive water level. Where conditions require submerged inlets, fixtures shall be equipped with vacuum breaker and approved check valve by Division 22.

#### 4.4 REMOTE REFRIGERATION SYSTEMS:

- A. The systems as indicated shall be complete and shall include all necessary labor to make a first-class installation. Contractor shall provide all necessary expansion valves, hand shut-off valves, dryers, sight glasses, thermostats, solenoid valves, high and low pressure controls, heat exchangers, line vibration eliminators and tubing. Provide schematic of proposed hookup to Consultant prior to installation for approval.
- B. Heat exchangers are to be furnished and installed for all direct installations. Crankcase heaters to be provided in compressors for outside installation.
- C. Furnish and install at each unit a liquid and suction line shut-off valve as closely as practical to the equipment. Install in each system a pump down valve take-off connection.
- D. Expansion valves shall be thermostatic type, adjustable super-heat. Backpressure regulating valves shall be used on multi-plexed systems.
- E. All refrigerant lines shall be type "L" hard copper tubing as required by approved installation practices. Where conduits are provided by others, the tubing shall be soft copper pulled through this conduit. For exposed areas, hard copper tubing shall be run in such a manner as to not subject it to undue damage. All refrigerant lines in pipe sleeves, or conduits shall be effectively caulked at ends to prevent entrance of water or vermin. All lines not in conduit shall be insulated with Armstrong Armaflex foamed plastic 1" insulation, which is to be taped and glued at joints. No slit insulation will be accepted. All refrigerant piping shall be joined by use of Sil-Foz high temperature silver solder with proper fittings.
- F. Finish exposed refrigerant lines within refrigerated compartments with Benjamin Moore "All Weather Aluminum" #137000 paint.
- G. Armstrong Armaflex line insulation on exterior of buildings to be finished with two (2) coats of Armaflex finish "UV" resistant paint. This is to help prevent deterioration due to sun exposure.
- H. Sizing of liquid and suction lines shall be according to ACRMA standards. All systems shall be subjected to a 20" vacuum for a period of 24 hours with no regain. Support all suspended lines with adjustable hangers 6'-0" o.c. maximum.
- I. Contractor shall provide CFC free refrigerant and oil, charge the system and run an operational check of three (3) days duration and provide oil separators in all instances where the condensing units are located above the refrigerating coil. Warranty shall be as hereinbefore described.

#### 4.5 FIELD QUALITY CONTROL:

- A. Inspection: Provide access to shop fabrication areas during regular working hours to facilitate inspection of the equipment, during construction, by the Architect or his authorized

representative. Errors found during these inspections shall be corrected to the extent required within the scope of the plans, specifications and reviewed drawings.

1. Testing: After completion of final connections, thoroughly test all equipment for proper operation.
2. Repair or replace any equipment producing objectionable noise.
3. Finishes marred during installation shall be repaired to the Consultant's satisfaction or replaced.
4. Start-up and Demonstration: Provide a start-up and operating demonstration of all equipment at a time of Owner's convenience.
5. Arrange for the demonstration to be held in the presence of authorized representatives of the Architect and the Owner.
6. Demonstrations to be conducted by Manufacturer's Representative and Equipment Supplier in the proper operation and maintenance of the equipment.
7. One (1) copy of Operation and Maintenance Manuals as outlined in section marked "Quality Assurance" to be delivered to the Kitchen Manager at the time of demonstration for use on-site.
8. Foodservice Equipment Supplier is to furnish to the Owner, Architect and Foodservice Equipment Consultant confirmation of demonstration and delivery of Operation and Maintenance Manuals in the form of "A Letter" including a "Receipt" for the Manual and a copy of "Sign-In" Sheet signed by all Demonstrators and Attendees.

#### 4.6 ADJUST AND CLEAN:

- A. Upon completion of installation and tests, remove all protective coverings and clean and service all equipment.
- B. Make and check final adjustments required for proper operation of the equipment.
- C. Cleanup: Clean up all debris by the work of this section, keeping the premises clean and neat at all times.

#### 4.7 QUALIFIED KITCHEN SUPPLIERS:

- A. Kitchen and food serving equipment shall be furnished, installed, and guaranteed by one of the following named kitchen suppliers:
  1. Amundsen Commercial Kitchens, Mr. Cary Amundsen, 1740 W. Main Street, Oklahoma City, Oklahoma 73106 405/236-5961, E-mail: [Cary@afeok.com](mailto:Cary@afeok.com)
  2. Bargreen-Ellingson, LLC., Mr. Dustin Kennedy, 2521 East Loop 820 North, Bldg. 13, Fort Worth, Texas 76118, 817/732-6200, FAX 817/732-6210, E-mail: [d.kennedy@bargreen.com](mailto:d.kennedy@bargreen.com)
  3. Edward Don & Co., Mr. Scott Jost, 36 W. Beauregard, Ste. 504, San Angelo, Texas, 76903, 325/658-5878, FAX 325/658-7920, E-mail: [scottjost@don.com](mailto:scottjost@don.com)
  4. Jean's Restaurant Supply, Mr. Bobak Mostaghasi, 426 South Staples, Corpus Christi, Texas 78401 361/884-9800, FAX 361/888-7602, Cell 361/549-7818, E-mail: [bobak@jeansrestaurantsupply.com](mailto:bobak@jeansrestaurantsupply.com)
  5. Kirby Restaurant Supply, Mr. Billy Anderson, 809 S. Eastman Road, Longview, Texas 75602, 903/757-2723, FAX 903/757-9519, E-mail: [michaelp@kirbyrestaurantsup.com](mailto:michaelp@kirbyrestaurantsup.com)
  6. Kommercial Kitchens, Mr. Terry Woodard, 1100 Freeway Blvd., Rose City, Texas 77622, 800/962-1555, FAX 409/769-8800, E-mail: [Shannon@kommercialkitchens.com](mailto:Shannon@kommercialkitchens.com)
  7. Kitchen Resources, Mr. Bill Youngblood or Mike Mattar, 806 W Harrison, Harlingen, Texas 78550, 956-423-2491, FAX 956-423-3088
  8. Lafayette Restaurant Supply, Inc., Mr. Scott Spurlock, 1103 Hugh Wallis Road S., Lafayette, LA 70508 337/235-4534, FAX 337/234-1803, E-mail: [scott@lafrest.com](mailto:scott@lafrest.com)

9. LoneStar Restaurant Supply, Inc., 8131 I-35N, Austin, Texas, 78753, 512/633-3446, FAX 512/467-9757
10. Mission Restaurant Supply Company, Mr. Bruce Walker, 6509 North Lamar Street, Austin, Texas, 78752, 512/389-1705, FAX 512/389-1746, E-mail: [brucew@missionrs.com](mailto:brucew@missionrs.com)
11. Pasco Brokerage, Inc., Ms. Kathryn Hollon or Ms. Emily Hart, 6465 Chase Oaks Blvd., Plano, Texas 75023, 972/596-3350, FAX 972/596-2817 E-mail: [kathollon@pascoinc.net](mailto:kathollon@pascoinc.net) or [ehart@pascoinc.net](mailto:ehart@pascoinc.net)
12. Stafford-Smith, Inc., Mr. Mark Burden, 13370 Branch View Lane, Suite 160, Farmers Branch, TX 75234, 972/800-5269, email: [mburden@staffordsmith.com](mailto:mburden@staffordsmith.com)
13. Supreme Fixtures Co., Inc. Mr. Tim Hampel, 11470 Hillguard Rd., Dallas, TX 75243, 501/455-2552, FAX 501/455-0802 email: [tim@supremefixture.com](mailto:tim@supremefixture.com)
14. Texas Metal Equipment Company, Mr. Stephen Trawnik, 8704 Royal Lane, Irving, Texas 75063, 214/446-7206, FAX 214/446-7209, E-mail: [strawnik@txmetalequip.com](mailto:strawnik@txmetalequip.com)
15. Waco Hotel Supply Company, Inc., Shaleen Tillman, 308 Lake Air Drive, Waco, Texas 76714-7933, 254/772-8600, FAX 254/772-1158, E-mail: [whsc@advanceone.net](mailto:whsc@advanceone.net)

4.8 QUALIFIED REFRIGERATION SYSTEM INSTALLERS:

1. Belk Refrigeration – 972/686-8916
2. Boyd Refrigeration, LLC - 512/832-9235
3. Cooler's Inc. – 713/665-8886
4. I.M.S. – 210/825-9900
5. Liberty Ice Machine – 972/983-1757
6. R.S.I. – 972/279-3800
7. Horton Commercial Refrigeration – 903/455-1798

4.9 QUALIFIED FABRICATORS:

- A. All fabricated Items described in the specifications, other than by the catalog numbers shall be manufactured by an N.S.F. approved Foodservice Equipment Fabricator who has the plant, personnel and engineering facilities to properly design, detail and produce high quality foodservice equipment. All fabrication shall have N.S.F. labels and be by one (1) manufacturer and be of uniform design and finish.
- B. The Foodservice Equipment Contractor shall, if requested, submit a list of at least three (3) comparably-sized projects for which the intended Foodservice Equipment Fabricator has furnished custom fabricated equipment.

END OF SECTION 11 40 00





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