

PLANNING & DEVELOPMENT MEMORANDUM
#9-2022

DATE: April 11, 2022

TO: Honorable Mayor Meredith Leighty and City Council Members

THROUGH: Heather Geyer, City Manager 

FROM: Brook Svoboda, Director of Planning & Development 
Eric Ensey, Senior Planner

SUBJECT: CR-68 – Contract for Construction Manager/General Contractor for Construction of the New City Hall

PURPOSE

To consider CR-68, a resolution approving a contract with FCI Constructors, Inc. (FCI) for Construction Manager/General Contractor (CM/GC) services for Phase II of the Northglenn Civic Center (NGCC), which includes construction of the new City Hall facility.

BACKGROUND

This project is part of the overall redevelopment of the NGCC site, which includes the 20.7-acre site that houses the existing City Hall facility and new and old recreation center. The City Council adopted the Northglenn Civic Center Master Plan in 2017 to guide the overall redevelopment of the site. In October 2021, the first phase of the redevelopment was completed with the grand opening of the City's new Northglenn Recreation Center, Senior Center and Theatre. The redevelopment is currently in Phase II, which is construction of the new City Hall facility and associated parking, as well as demolition of the old rec center and then the current City Hall once the new facility is open.

The City Hall Project Team includes staff, the project architects and project administrator. The staff representation includes employees from the City Manager's Office, Planning & Development Department, and Public Works Department. For project administration services, the City retained Cumming Management Group in December 2020. For architectural and engineering services, the City entered into a contract with Anderson Mason Dale Architects (AMD) in May 2021. The final member of the team is the CM/GC, which staff is recommending Council enter into a contract with FCI Constructors.

The CM/GC project delivery method allows for the City to engage a construction manager during the design process to provide constructability input and cost estimation. It is also known as Construction Manager at Risk (CMAR). This delivery method provides that the CM/GC is compensated on the basis of a "Cost of the Work plus a Contractor's Fee with a Guaranteed Maximum Price." This process is outlined in the proposed contract.

As part of this delivery method, the CM/GC is brought on during the design phase, with their scope of involvement being commonly referred to as "preconstruction services." The proposed contract, at this time, incorporates only preconstruction services, which means that the CM/GC would provide services during the design phase to, ultimately, develop a Guaranteed Maximum Price (GMP). The GMP is set by a future amendment to the contract, which would be brought back to City Council. The contract being presented this evening, if approved, would cover the amount for preconstruction services for the CM/GC, which covers their involvement in the design efforts and pricing.

A Request for Qualifications (RFQ) was published on Nov. 5, 2021. RFQ responses were submitted by FCI, Fransen Pittman, Adolfsen & Peterson and Bassett, and then reviewed by the Project Team. Based on the submitted qualification packages, three of the four firms met the qualifications for the project and were selected to move forward in the process. Bassett did not meet all the minimum qualifications and was not invited to submit a proposal.

A Request for Proposal (RFP) was released to the three short-listed firms on Nov. 23, 2021. Each of the three firms submitted a complete written proposal and participated in an interview process. Both the interview and the written proposals were scored by the Project Team. Based on those scores, FCI was selected by the Project Team to be presented to the City Council as the finalist for the CM/GC contract.

FCI brought forth experience in construction of municipal facilities as well as experience on City facilities with their work as CM/GC for the Justice Center and the new rec center. They showed a collaborative approach, a strong understanding of the community's needs, and a clear understanding of the scope of the project. FCI's work on the Justice Center and the rec center was exceptional, with both projects being completed on time and within budget.

BUDGET/TIME IMPLICATIONS

Funding for Phase II of the NGCC has been estimated in the amount of \$28.6 million, inclusive of all hard costs, soft costs and contingencies associated with the project. Funding was discussed at the March 10, 2022, City Council meeting. Based on Council direction, the facility will be funded by cash reserves, and will not utilize debt financing or any tax increase to accommodate funding. The following is a breakdown of the funding for the project:

Funding Source	Amount
General Fund reserve	\$8.0M
1/2% sales tax	\$14.6M
Marijuana tax	\$4.5M
Phase I estimated carryover	\$1.5M
Total Project Cost	\$28.6M

This approval would award the initial amount for the contract for \$54,854, which would cover the preconstruction phase as identified in the contract. The preconstruction phase allows the CM/GC to work with AMD and the City to ensure that the CM/GC initial cost estimate and the current design scope/intent are in alignment with the City's budget. Once the City accepts the initial cost estimate, it becomes the Initial Guaranteed Maximum Price (IGMP). Throughout the design process the CM/GC will provide detail in the breakdown of the IGMP in an effort to finalize the Final Guaranteed Maximum Price (FGMP). The FGMP cannot exceed the IGMP and it will be the responsibility of the CM/GC and AMD to bring the FGMP within the total project budget at their expense. The FGMP will include the final cost of work, construction manager's fee and construction manager's contingency. Following the development of an FGMP, a contract amendment will be submitted to the City Council for review. If approved, that amount would be added to the amount for preconstruction services and this initial contract via an addendum to this contract.

Staff is anticipating bringing forward at least two separate FGMP packages for Council approval due to timing and mobilization of the CM/GC on the site.

- The first package would likely include demolition of the old recreation center building, environmental remediation of that site, traffic signalization of Memorial Parkway and Community Center Drive, and site preparation for the new City Hall facility.

- The second package would include construction of the new City Hall facility and associated parking, along with demolition of the existing City Hall building. The first of these packages will likely be brought forward within the next couple months.

The upcoming project schedule is as follows for design of the new City Hall facility:

- Schematic Design complete – June/July 2022
- Design development complete – Q3/Q4 2022
- FGMP 1 (demolition, site remediation, traffic signal) – Q4 2022
- IGMP developed – Q1 2023
- Construction documents complete – Q1 2023
- FGMP 2 (construction of the new City Hall) review, contract negotiation, approval – Q1 2023
- Notice to Proceed – Q1 2023 or Q2 2023

STAFF RECOMMENDATION

Attached to this memorandum is CR-68, a resolution that, if approved, would authorize the Mayor to execute a contract between the City of Northglenn, Colorado and FCI Constructors, Inc. for the Construction Manager/General Contractor Services with a contract amount of \$54,854 for preconstruction services. Staff recommends approval of CR-68.

STAFF REFERENCE

If Council Members have any questions, please contact Brook Svoboda, Director of Planning & Development, at bsvoboda@northglenn.org or 303.450.8937.

SPONSORED BY: MAYOR LEIGHTY

COUNCIL MEMBER'S RESOLUTION

RESOLUTION NO.

No. CR-68
Series of 2022

Series of 2022

A RESOLUTION APPROVING A CONSTRUCTION MANAGER CONTRACT BETWEEN THE CITY OF NORTHGLENN AND FCI CONSTRUCTORS, INC. FOR PHASE 2 OF THE NORTHGLENN CIVIC CENTER PROJECT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The Construction Manager Contract between the City of Northglenn and FCI Constructors, Inc., attached hereto, in an amount not to exceed \$54,854.00 for Phase 2 of the Northglenn Civic Center Master Plan Project is hereby approved and the Mayor is authorized to execute same on behalf of the City of Northglenn.

DATED, at Northglenn, Colorado, this _____ day of _____, 2022.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

 **AIA**® Document A133™ – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the 25th day of February in the year 2022
(In words, indicate day, month, and year.)

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

City of Northglenn, State of Colorado
11701 Community Center Drive
Northglenn, Colorado 80233

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

FCI Constructors, Inc.
4015 Coriolis Way
Fredrick, CO 80504

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

Civic Center Master Plan Phase II
Northglenn, Colorado

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

Anderson Mason Dale Architects, P.C
3198 Speer Boulevard
Denver, CO 80211

The Owner and Construction Manager 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.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	GENERAL PROVISIONS
3	CONSTRUCTION MANAGER'S RESPONSIBILITIES
4	OWNER'S RESPONSIBILITIES
5	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
6	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
7	COST OF THE WORK FOR CONSTRUCTION PHASE
8	DISCOUNTS, REBATES, AND REFUNDS
9	SUBCONTRACTS AND OTHER AGREEMENTS
10	ACCOUNTING RECORDS
11	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
12	DISPUTE RESOLUTION
13	TERMINATION OR SUSPENSION
14	MISCELLANEOUS PROVISIONS
15	SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

The proposed City Hall facility is anticipated to have some unique design characteristics, due to its location within the NGCC site. The proposed building may be located adjacent to the city's Veteran's Memorial Plaza to the south and what is likely to be a multifamily community to the north. It is anticipated that the City Hall facility will be 2-3 stories in height and will house the main governmental and administrative functions of the city. The proposed City Hall building is envisioned as a 25,000 to 30,000 square foot facility. These square footages will need to be finalized following a space needs analysis, which is being developed at this time.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The new facility will be located at on a site within the Northglenn Civic Center Plan in Northglenn, CO

Init.

AIA Document A133™ – 2019. Copyright © 1991, 2003, 2009, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 13:13:08 CT on 02/28/2022 under Order No.4664365076 which expires on 09/01/2022, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes:

(1417168948)

§ 1.1.3 The Owner's Approved Budget for the Initial Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

The budget amount for the City Hall facility will be capped at \$18 million. This amount is to include all hard and soft costs, any necessary infrastructure, as well as the cost of construction and all finishes for the new City Hall facility.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Programming through Construction Documents - approximately 10 months

.2 Construction commencement date:

TBD

.3 Substantial Completion date or dates:

TBD

.4 Other milestone dates:

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

TBD

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234-2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Eric Ensey
City of Northglenn, State of Colorado
11701 Community Center Drive
Northglenn, Colorado 80233-8061

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

Jack Christensen
Cumming Management Group, Inc.
88 Inverness Circle East
Building G, Suite 101
Englewood CO 80112
jchristensen@cumming-group.com

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

Terracon
10625 West Interstate 70 Frontage Rd. N. #3
Wheat Ridge, CO 80033

.2 N/A:

N/A

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

David Pfeifer, Principal-in-Charge
3198 Speer Boulevard
Denver, Colorado 80211
DPfeifer@amdarchitects.com
(303) 294-9448

Joey Carrasquillo, Principal, Point-of-Contact
3198 Speer Boulevard
Denver, Colorado 80211
JCarrasquillo@amdarchitects.com
(303) 294-9448

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Nathaniel Sperry
FCI Constructors, Inc.
4015 Coriolis Way
Frederick, CO 80504
(970) 535-4725

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

Init.

(List any Owner-specific requirements to be included in the staffing plan.)

See Attachment D – Staff Assignment Matrix

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

See Section 3.6.1.5.5 and Section 3.1.11

§ 1.1.15 Other Initial Information on which this Agreement is based:

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 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. Upon the Owner's acceptance of the Construction Manager's Initial Guaranteed Maximum Price (IGMP) proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Initial Guaranteed Maximum Price proposal and executed in the Final Guaranteed Maximum Price (FGMP) Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

Based on the information provided by the Construction Manager through the selection process, the Construction Manager and their proposed staff have represented that they possess certain relevant experience and capabilities to deliver the Work at a stated level of performance with regard to this project type. The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and best professional judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Construction Manager shall perform its operations in an open book collaborative process during the Project, including Work performed through the General Conditions costs. An open book approach requires the Construction Manager to make available to the Owner, in detail, all correspondence, documentation and transactions related to the Project, in a timely manner in accordance with this Agreement. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager, to the extent available to the Owner, and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified and agreed to by Owner and Construction Manager, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3,

Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, as modified by Owner, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager has identified a representative authorized to act on behalf of the Construction Manager with respect to the Project on page 1 of this Agreement.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 At the time of execution of the Contract, the Construction Manager has provided a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as 3D Modeling, procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using 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.

§ 3.1.4 Preliminary Project Schedule

The Construction Manager has already provided a Preliminary Project Schedule. The Construction Manager shall update the schedule in a critical path format for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's concurrence for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate preconstruction and construction activities of the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; as well as identify major milestone items that affect the Project's timely completion. The updated Project schedule shall include, but not be limited to the following: submission of the Initial Guaranteed Maximum Price, milestone budget updates, and the Final Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

Init.

§ 3.1.5 Phased Construction

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

§ 3.1.6 Construction Manager Selection / Cost Estimates

§ 3.1.6.1 As an element of the Construction Manager's selection process, the Construction Manager provided an initial rough order of magnitude estimate based on the level of design at the time of the selection process. Prior to further evolution of the design by the Architect, the Construction Manager shall work closely with the Architect and the Owner to ensure that the current design scope/intent and the Construction Manager's related initial cost estimate are in alignment with the Owner's current approved scope, as defined in the approved current design documents and the Owner's Approved Budget. Once the Construction Manager's initial cost estimate is approved by the Owner, this estimate shall become the Initial Guaranteed Maximum Price.

- .1 The Construction Manager is required to develop an Initial Guaranteed Maximum Price bound report including detailed estimates, assumptions in developing the report, project schedules, not-to-exceed General Conditions costs, approved billable rates and rental rates, and additional information as required by the Owner. The Construction Manager is not required to execute a formal guarantee of the Initial Guaranteed Maximum Price, however the Owner is relying on the accuracy and reasonableness of the Initial Guaranteed Maximum Price and therefore the Initial Guaranteed Maximum Price shall be the Construction Manager's most realistic estimate of what the Construction Manager believes will be the Project's final cost and the appropriate Project Schedule is once the design is complete and the Final Guaranteed Maximum Price is executed.
- .2 As the plans and specifications evolve through each design phase, the Construction Manager will perform cost studies and major estimates of the Cost of the Work using area, volume or similar estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggest alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems. Any alternative materials or systems selected by the Owner, based on the cost evaluations provided by Construction Manager, shall then be incorporated into the updated budgets.
- .3 Once the Initial Guaranteed Maximum Price has been approved in writing by the Owner, the Construction Manager and the Architect shall work together throughout the evolution of the design to be certain that the Final Guaranteed Maximum Price and schedule remains within the approved Initial Guaranteed Maximum Price and schedule.
- .4 The Construction Manager's estimating and budgeting systems and reports shall be flexible to allow comparisons of building systems and components. They shall include a means to provide a variance analysis throughout each budget update starting with the Initial Guaranteed Maximum Price and continuing through the Final Guaranteed Maximum Price. The format of the estimating system shall include detail sheets for each Work task that reflect unit prices, quantities, and extensions for labor and materials. The Construction Manager shall set-up the estimate in a Construction Specifications Institute (CSI) format in a detailed open book collaborative manner that allows the Owner to make timely and informed decisions. Each budget shall also include a detailed list of relevant clarifications as they relate to the preparation of each budget update, and an updated Project Schedule. Allowances are to be clearly identified within each budget update on a separate summary level report at each design phase.
- .5 The Construction Manager may involve key Subcontractors during the evolution of the design documents to assist with budgeting and design solutions; however, the Construction Manager may not award or commit work to a Subcontractor other than through a competitive selection process during the development of the Final Guaranteed Maximum Price, unless specifically approved otherwise in writing by the Owner.
- .6 In the event the Construction Manager's proposed Final Guaranteed Maximum Price or Project Schedule exceeds the approved Initial Guaranteed Maximum Price, if the Owner so directs, the Construction Manager and the Architect shall work together to bring the Project back within the Owner's Approved

Init.

Budget and schedule, based on the Owner's written acceptance of the 100% Construction Documents. If the Final Guaranteed Maximum Price or Project Schedule exceeds the Initial Guaranteed Maximum Price or Project Schedule for that Phase, then the Construction Manager and the Architect shall work together to bring the Work within the Initial Guaranteed Maximum Price and Project Schedule through means and methods, value engineering and acceptable alternates or other means appropriate to reduce the cost. The Construction Manager's expenses associated with this effort shall be the sole responsibility of the Construction Manager and Owner shall have no obligation to pay or reimburse any expenses associated with assisting the Owner to bring the project within budget.

- .7 At the time of establishment of the Initial Guaranteed Maximum Price, the General Conditions estimate will be converted to a guaranteed maximum amount within the Initial Guaranteed Maximum Price. General Conditions costs may only be increased or decreased by Change Order.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents as appropriate, the Construction Manager shall prepare and update, at intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design including multiple cost studies on alternate systems and materials, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Final Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval using estimating systems and procedures which are acceptable to the Owner. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the Initial Guaranteed Maximum Price, and make recommendations for corrective action. The Owner, Architect and Construction Manager shall determine the corrective action to be taken and shall incorporate the results of these corrective actions into the Final Guaranteed Maximum Price for the Work.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

(Paragraph deleted)

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project. The Construction Manager shall furnish to the Owner and Architect for review and approval, a list of proposed Subcontractors and material suppliers who are to furnish materials or equipment from whom bids will be requested for each principal portion of the Work. The Owner or Architect will promptly reply in writing to the Construction Manager if the Owner or Architect knows of any objection to such Subcontractor or material supplier. The receipt of such list shall not require the Owner or Architect to investigate the qualifications of proposed Subcontractors or suppliers, nor shall it waive the right of the Owner or Architect later to object to or reject any proposed Subcontractor or supplier.

§ 3.1.11.1.3 The Final Guaranteed Maximum Price shall be established by incorporating the Construction Manager's General Condition costs approved during the Construction Manager selection process. Construction Manager shall competitively bid all Direct Work to a minimum of three (3) Subcontractors for each subcontracted scope of Work unless the Owner agrees otherwise in advance in writing. Once bids are received, the Construction Manager shall share the results of the bidding process with the Owner and Architect and make recommendations on the selection of the Subcontractor or material supplier based on cost, schedule, and other factors that will maximize the success of the total Project. For specific major trades, the Construction Manager must notify the Owner in a timely fashion when it intends to conduct scope confirmation meetings with the final bidders. The Owner may at its sole discretion elect to participate in scope confirmation meetings with the Construction Manager and the key Subcontractors. The Construction Manager shall share detailed bid tabs and discuss scopes of Work, upon Owner request.

§ 3.1.11.2. Direct Work shall be defined as actual Work described in Article 7 of this Agreement that has not already been secured through the General Conditions costs. The Direct Work shall be performed by Subcontractors material suppliers, and Self-Perform Work under a subcontract agreement.

§ 3.1.11.2.1 Self-Perform Work means Direct Work performed by the Construction Manager's own forces. In the event the Construction Manager prefers to perform Work for any principal portions of the Work, other than General Conditions or emergency safety activities, with its own forces, the Construction Manager must secure this Work through a competitive process approved by the Owner. Construction Manager may not perform Direct Work with its own forces unless Owner approves, in its sole and absolute discretion. The Owner shall be entitled to require Construction Manager to obtain competitive bids from at least two (2) additional qualified and approved Subcontractors or general trades contractors. The Construction Manager shall work with the designer to develop a general trades package to assure that numerous miscellaneous scopes of Work can be competitively bid to Subcontractors or smaller general contractors. The Construction Manager shall submit its own bid to the Owner at least four (4) hours prior to the time the Subcontractors' sealed bids are due. The Construction Manager's and Subcontractors' bids shall then be opened simultaneously in the presence of the Owner and Construction Manager, who shall jointly analyze the bids for price, thoroughness, schedule, proposed staff and relevant expertise. The Owner shall be entitled to determine, in its best interest and with sole and absolute discretion, whether Construction Manager's request to Self-Perform Work will be authorized. Owner may require the Work to be performed by a Subcontractor regardless of whether it appears that Construction Manager can perform Self-Perform Work in accordance with the requirements of the Contract Documents applicable thereto. There may be limited scopes of Work that the Owner may approve to be performed by the Construction Manager that are not secured through a competitive process.

§ 3.1.11.2.2 Construction Manager shall administer and account for all costs, management and financial tracking of any Self-Perform Work as though it were being performed under a separate subcontract. If Self-Perform Work is awarded to Construction Manager through a competitive bidding process, the pricing for such Work shall be in accordance with the Construction Manager's bid (subject to the Final Guaranteed Maximum Price). If Self-Perform Work is awarded to Construction Manager without competitive bidding for limited scopes of work, such Work shall be billed at Construction Manager's actual direct cost exclusive of any further markups for profit, overhead, General Conditions costs or other fees, other than the Construction Manager's Fee as stated in article 6 of this agreement.

§ 3.1.11.2.3 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Final Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Final Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager, the cost of which shall be included within the Final Guaranteed Maximum Price, and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.11.4 Selection of Mechanical, Electrical and Plumbing Subcontractors.

With the Owner's prior approval, the Construction Manager, working in collaboration with the Owner and Architect, will promptly implement a formal competitive selection process, approved by the Owner, for each of the Mechanical,

Electrical, Plumbing and Fire Protection Subcontractors. The Construction Manager shall submit to the Owner for review and approval, the list of Mechanical, Electrical, Plumbing and Fire Protection Subcontractors from which the Construction Manager proposes to request participation. This Work shall be secured either through lump sum bids or with the Owner's prior approval, the successful Subcontractors may be added to the Project under a separate Guaranteed Maximum Price (GMP) Subcontract Agreement and their estimates will be incorporated within the Construction Manager's GMP. The Construction Manager shall be required to obtain a contractual commitment from each such subcontractor that each Bid Package will be performed at competitive market prices. If at any time, the Construction Manager or Owner believes that a Bid Package pricing is not within competitive market pricing, the Construction Manager will secure additional competitive pricing, as directed by the Owner.

§ 3.1.11.5 The Subcontractor list shall be divided into major Subcontractors (subcontracts that equal or exceed (\$25,000) and minor Subcontractors (subcontracts that are less than \$25,000). There will be no commitment made to any Subcontractors, including Mechanical, Electrical, Plumbing, and Fire Protection trades, until the Final Guaranteed Maximum Price is approved, unless specifically authorized in writing by the Owner. At the Owner's sole discretion, the Owner reserves the right to require the Construction Manager to obtain approval prior to entering into any financial obligations, subcontract agreement or purchase order with any subcontractors and material suppliers in excess of \$25,000. In such event, the Construction Manager must prepare Authorization Letters and submit to the Owner for written approval in a form approved by the Owner. The Authorization Letters must clearly state the Scope of Work to be completed, the Cost of the Work to be released (including any holds), the comparison to the costs to the costs carried in the IGMP or in the FGMP for this Work, the cost of the subcontractor's bond, if required, and any impact that this Work may have on the approved Project Schedule. These Authorization Letters must have a clear and complete link to the FGMP for cost tracking purposes.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Final Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities for inclusion in the Contract Documents.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document.

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

§ 3.2 Final Guaranteed Maximum Price Proposal

§ 3.2.1 When the design is sufficiently complete to describe the clear intent and scope of the Project, ideally at the Permit Documents phase or the Construction Documents phase, the Construction Manager shall prepare a Final Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance, which shall then be incorporated into this agreement as Exhibit A – Guaranteed Maximum Price Amendment. The Guaranteed Maximum Price in the proposal shall be the sum of the Subcontractors and material supplier's bids along with Construction Manager's estimate of the Cost of additional Work, not yet secured, along with, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Final Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and

Init.

reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Final Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following, in a format approved by the Owner:

Exhibit A – Guaranteed Maximum Price Amendment; and Attachments:

- .1 Attachment A – (Revised) Budget Summary, a detailed estimate stating the Fee (converted to a lump sum), General Conditions costs (as a not-to-exceed), insurances and bond costs, as required;
- .2 **Attachment B** – Detailed General Conditions costs, (as a not-to-exceed amount)
- .3 **Attachment C** – Approved Labor Burden Rates;
- .4 **Attachment D** – Staff Assignment Matrix;
- .5 **Attachment E** – A list of allowances and unit prices;
- .6 **Attachment F** – Responsibility Matrix;
- .7 **Attachment G** – A list of the clarifications and qualifications;
- .8 **Attachment H** – Project Schedule, including a detailed critical path Construction Schedule;

- .9 **Attachment I** – Insurance Certificates;
- .10 **Attachment J** – Approved Lien Waivers Forms (Conditional and Unconditional, Partial and Final);
- .11 **Attachment K** – A list of the Drawings and Specifications, including all addenda;
- .12 **Attachment L** – A list of all Construction Manager provided equipment along with billable rates; and,
- .13 **Attachment M** – Owner Accepted Alternates.

§ 3.2.4 In preparing the Construction Manager’s Final Guaranteed Maximum Price proposal, the Construction Manager shall include a Construction Manager’s Contingency for the Construction Manager’s exclusive use to cover costs arising under Section 3.2.2 and 3.2.4.2, and other unanticipated costs which are properly considered reimbursable as a Cost of the Work but do not form the basis for a Change Order as a result of changes in the scope of the Work. The Construction Manager’s Contingency shall not exceed five percent (5%) for the Initial Guaranteed Maximum Price, and shall not exceed three percent (3%) for the Final Guaranteed Maximum Price. No Fee is added to the Construction Manager’s Contingency at the time the FGMP is prepared.

§ 3.2.4.1 The Construction Manager shall report and reconcile the Construction Manager’s Contingency to the Owner on a monthly basis. All Construction Manager Contingencies shall include Direct Cost of Work, including labor, materials, equipment, delivery to the site, insurance, bonds and permits as required, and include the Construction Manager’s Fee., The allocation of the contingency shall not increase the Final Guaranteed Maximum Price.

§ 3.2.4.2 Access to the Contractor’s Contingency requires the Owner’s written approval. The Owner shall not unreasonably withhold approval of a Change Order to utilize the Construction Manager’s Contingency so long as (a) the contingency amount accessed does not cause the Final Guaranteed Maximum Price to be exceeded (b) the Construction Manager utilizes the Construction Manager’s Contingency for items required for the Project that are not otherwise recoverable as Costs of the Work under the Contract Documents, and (c) the Construction Manager’s Contingency is used for any items outlined in clauses .1 through .3 below:

- .1 Scope of the Work that is unclear, incomplete or conflicting on the Contract Documents but is Work consistent with the Contract Documents and reasonably inferable as being necessary to produce the intended results for a complete Project.
- .2 Additional resources necessary to recover lost time. If overtime is required to maintain the schedule, the Construction Manager shall obtain the Owner’s prior written approval before moving forward with such overtime.
- .3 Delays caused by market, labor, material or transportation conditions, labor disputes, abnormal weather or other causes which are costs of the Work but do not justify an increase in the FGMP.

§ 3.2.4.3 The Construction Manager’s Contingency is not available for use by the Construction Manager for mistakes that result from Self-Perform Work secured through competitive bidding, mistakes of subcontractors or material suppliers, or any warranty work.

§ 3.2.4.4 The Construction Manager’s Contingency is not available for use by the Owner for allowance overruns, changes in the Scope of Work, differing or changed site conditions.

Init.

§ 3.2.4.5 At Final Completion of the Project, any unused portion of the Construction Manager's Contingency remaining in the Final Guaranteed Maximum Price will be returned 100% to the Owner.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Final Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Final Guaranteed Maximum Price proposal, its basis, or both. If the Final Guaranteed Maximum Price exceeds the Initial Guaranteed Maximum Price, the Construction Manager will work with the Architect and the team to bring the project back within budget in a timely manner, at no additional cost to the Owner for Preconstruction Services.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Final Guaranteed Maximum Price proposal in writing, the Final, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Exhibit A - Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Final Guaranteed Maximum Price Amendment shall set forth the agreed upon (Final) Guaranteed Maximum Price with the information and qualifications upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Exhibit A - Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Final Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Final Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201-2017, the date of commencement of the Work on the Project requires a separate Notice-to-Proceed with construction.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Final Guaranteed Maximum Price Amendment and, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Final Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall update and submit to the Owner and Architect a construction schedule for the Work and an updated submittal schedule in accordance with Section 3.10 of A201-2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

Init.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner has designated a representative authorized to act on behalf of the Owner with respect to the Project on page 1 of the AIA A133-2019. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 **Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B103™-2019, Standard Form of Agreement Between Owner and Architect, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement., including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 The Preconstruction Phase and Construction Phase may run concurrently. Preconstruction Phase Services are identified as a separate cost, which shall be included as a not-to-exceed amount. For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager based on the actual services provided by the Construction Manager.

The not to exceed amount for Preconstruction Phase Services is: Fifty Four Thousand, Eight Hundred and Fifty Four Dollars (\$4,854.00)

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Attachment C – Approved Labor Burden Rates

Individual or Position	Rate
------------------------	------

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification. No Fee on these services shall not be allowed.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within nine (9) months of the date of this Agreement, through no fault of the Construction Manager, and the not-to-exceed preconstruction fee has been exhausted, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

Init. / AIA Document A133™ – 2019. Copyright © 1991, 2003, 2009, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 13:13:08 CT on 02/28/2022 under Order No.4664365076 which expires on 09/01/2022, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1417168948)

§ 5.2.2 Payments are due and payable upon approval of the Construction Manager's invoice. Amounts unpaid forty-five (45) days after the invoice date is approved by the Owner shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

6 % six per annum

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Final Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

Fee shall be calculated as a percent of the reimbursable Cost of the Work, including but not limited to Allowances and General Conditions costs. This Fee shall be the entire Fee the Construction Manager shall receive for this Project for Construction Services, except for Self-Perform Work secured in competition and Construction Manager's Contingency. The Construction Manager shall not include Fee or administrative mark-ups directly within hourly billing rates, rental rates, on Preconstruction Phase Services, insurance, bond premiums, or on permit fees.

The Construction Manager shall be paid a Fee of two point nine percent (2.9%) of the Cost of the Work.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

The Construction Manager shall be paid a Fee of two point nine percent (2.9%) of the Cost of the Work for changes in the Work.

§ 6.1.3.1 Fee shall be increased or decreased under the following conditions:

- .1 On Change Orders approved by the Owner in writing.
- .2 For additive change orders, the Construction Manager's Fee will be increased by the same percentage used to calculate the Fee in §6.1.2.
- .3 For deductive change orders, the Construction Manager's Fee will be decreased by the same percentage used to calculate the Fee in §6.1.2.
- .4 Fee on Self-Perform Work, included in the Construction Manager's Bid for Self-Perform Work, if it is awarded through the competitive bidding process. The Construction Manager's Fee on Self-Perform Work shall be the Fee included within the Self-Perform Work Bid and not governed by §6.1.2.
- .5 In the event that the Owner allows a limited amount of Self-Performed Work to be awarded outside of a competitive process, this Self-Perform Work shall be governed by a self-perform fee at a rate of 10% in addition to the Fee as stated in §6.1.2.
- .6 Fee on Construction Manager's Contingency when such Contingency is moved to individual line items in a Change Order approved by the Owner will be governed by and at the same Fee rate as stated in §6.1.2. (the Fee shall be within the amount reallocated).

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 6.1.4.1 The maximum allowable mark-up for Change Orders by Subcontractors for Self-Performed Work shall be ten percent (10%) for overhead plus five percent (5%) for profit (a total of 15%). The maximum allowable mark-up by the Subcontractor on its sub-subcontractors shall be five percent (5%).

§ 6.1.4.2 The maximum allowable mark-up for Change Orders by sub-subcontractors for Self-Performed Work shall be ten percent (10%) for overhead plus five percent (5%) for profit (a total of 15%). The maximum allowable mark-up by the sub-subcontractor on its sub-subcontractors shall be five percent (5%).

§ 6.1.4.3 The total maximum allowable mark-up by a Subcontractor and sub-subcontractors for change orders shall be twenty percent (20%).

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed standard industry rates paid by the Construction Manager at the place of the Project.

Init.

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

Construction Manager understands that if the Substantial Completion Date is not attained by the scheduled date of Substantial Completion, the Owner will suffer damages which are difficult to determine and accurately specify. Construction Manager agrees that if the Substantial Completion Date is not met, the Construction Manager shall pay Owner Three Thousand Five Hundred Dollars (\$3,500.00) per day as liquidated damages for each day that Substantial Completion extends beyond the scheduled date of Substantial Completion.

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

§ 6.2 Final Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Final Guaranteed Maximum Price set forth in the Final Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Final Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. All savings remaining between the actual Final Contract Sum and the Final Guaranteed Maximum Price shall revert 100% to the Owner.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Final Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Final Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement. Subcontract and purchase orders adjustments shall not be made without either a guaranteed maximum price or a fixed price.

§ 6.3.5 If the extent of the changes in the Work is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

Init.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops in accordance with the approved hourly billing rates reflected in Exhibit A, attached hereto, which include all labor burden. Labor costs must be supported through Certified Payrolls.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval, in accordance with the approved wages, salaries or hourly billing rates reflected in Exhibit A, attached hereto, which include all fringe benefits and labor burden. With the prior approval of the Owner, certain accounting or estimating personnel assigned to the Project may be reimbursed for all or part of their time when stationed at the Construction Manager's principal office, if included in the not-to-exceed General Conditions Costs. Labor costs must be supported through Certified Payrolls. Under no circumstances shall salaried employees be compensated for overtime without the Owner's prior written approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, *(Paragraphs deleted)* in accordance with the hourly billing rates reflected in Exhibit A, attached hereto, which include all fringe benefits and labor burden. Labor costs must be supported through Certified Payrolls. Under no circumstances shall salaried employees be compensated for overtime without the Owner's prior written approval.

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work, in accordance with the hourly billing rates reflected in Exhibit A, attached hereto, which include all fringe benefits and labor burden. Labor costs must be supported through Certified Payrolls. Under no circumstances shall salaried employees be compensated for overtime without the Owner's prior written approval.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs must be included in the approved wages, salaries or hourly billing rates reflected in Exhibit A and must be included in the Cost of the Work under Sections 7.2.1 through 7.2.3. The Construction Manager shall not include Fee, vehicle allowance, cell phones, or administrative mark-ups directly within wages, salaries or hourly billing rates. Labor costs must be supported through Certified Payrolls.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.5.6 The Construction Manager shall provide for temporary office space and utilities for one (1) staff member between the Owner and the Architectural team within the temporary office compound, and include these costs within the General Conditions estimate. The Construction Manager shall provide internet connectivity but will not be required to provide computers for the Owner or Architect. This space shall include desks, chairs and miscellaneous supplies as well as provide access to copiers and printers in a clean and well-lit environment.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior written approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior written approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 The Owner shall pay the cost of the building permits and plan review fees, in accordance with Exhibit A. Construction Manager shall be reimbursed for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA

Init.

Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager’s Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, specifically related to the Work and located at the site, with the Owner’s prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager’s negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Intentionally deleted.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager’s standard written personnel policy for relocation and temporary living allowances of the Construction Manager’s personnel required for the Work, with the Owner’s prior approval. Owner will not pay for relocation and temporary living unless these expenses were clearly included within the proposed General Conditions costs at the time of selection of the Construction Manager and have been approved in writing by the Owner.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager’s supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work. Travel expenses must be approved in writing by the Owner prior to the expense being incurred. Payment for Travel and Business Related Expenses shall be reimbursed at actual costs without mark-ups. Travel expenses for the Construction Manager’s Executives and Officers will not be reimbursed under any circumstances, unless they are assigned full-time on-site to the Project.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner’s prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

Init.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's Project Executive and personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase performed prior to execution of the Contract;
- .10 Costs associated with establishing a local presence or in the development of an association with a local firm; and
- .11 Expenses incurred for relocation or temporary living allowances of the Construction Manager's personnel required for the Work, unless included within the General Conditions costs.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

Init.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

§ 10.1 The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ 10.2 Equipment purchased and charged to the Project as a Cost of the Work shall become the property of the Owner. Any lease/purchase rental arrangements must be disclosed to the Owner in a timely manner. If the Construction Manager purchases equipment under a lease/purchase arrangement whereby rental payments are charged to Owner as a Cost of the Work, an appropriate credit shall be given to the Owner for the fair market value of the equipment at the time it was last used on the Project. For Construction Manager-owned equipment, the Construction Manager shall maintain daily equipment usage reports. The equipment use reports shall be used by the Construction Manager to determine the most economical billing rate (hourly, weekly, monthly) to the Owner.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 The Construction Manager shall, during the last week of each month, meet with the Architect and Owner, and/or other parties designated by the Owner, to review and approve an itemized draft "Pencil Draw" pay request indicating the total estimated value of the Work completed through the end of the current calendar month including the value of all material and equipment suitably stored at the jobsite or at an approved location. Such draft will set forth the dollar amounts of completion of each portion of the Work, including a prorated share of the Construction Manager's Fee less applicable retention. The approved draft will then be formalized into a formal Application for Payment, and will be submitted to the Owner for processing.

§ 11.1.2 The Pencil Draw request shall include detailed documentation supporting the amount requested, including at least the following: subcontractor detail applications, invoices, ledgers, payroll documentation, and all other information requested by Owner and relevant to a complete "Open Book" guaranteed maximum price delivery method where all costs must be justified prior to reimbursement. Each application for payment must include waivers of Liens per the terms of this Agreement.

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

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

§ 11.1.4 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.5 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than thirty (30) days after the receipt and Owner approval of the Application for Payment. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment, and the Owner approves the Application for Payment.

Init.

§ 11.1.5.1 Each Application for Payment shall be based on the most recent Owner approved schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Final Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner and Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. When requested by the Owner, the Construction Manager shall submit payrolls, and with each Application for Payment, the Construction Manager shall submit petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values with the exception of the detailed General Conditions costs, which are a not to exceed amount.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 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. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment and justified by requisite documentation, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

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

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

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as supported by proper documentation by the share of the Final Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Final Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager 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;

- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 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%) of the Cost of the Work

§ 11.1.8.1.1 The following items are not subject to retainage:

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

Construction Manager's Fee

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

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

At the Owner's sole discretion, if the Work is proceeding to the satisfaction of the Owner, retainage may be reduced or discontinued on a case by case basis based on the quality and level of completeness of a subcontractor's Work.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

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

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

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Owner and the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.
- .4 a final Certificate of Occupancy has been issued by the municipality having authority.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment and approved by the Owner.

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

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Final Guaranteed Maximum Price.

§ 11.3 Interest

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

%

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201-2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, the Owner shall determine the actual value received from the Construction Manager's Preconstruction services. The Construction Manager shall be compensated for these services based on the actual value that the Owner receives up to the maximum amount allowed for the Preconstruction services.

§ 12.1.1.2 The parties are fully committed to working with each other throughout the Project and agree to

init.

communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Construction Manager and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

§ 12.1.1.3 Construction Manager and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Construction Manager's Representative and Owner's Representative which shall conclude within five (5) days of the written notice by one party to the other, unless the Owner and Construction Manager mutually agree otherwise.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(Paragraph deleted)

§ 12.2 Binding Dispute Resolution

In the event that the parties to this Agreement are unable to resolve a dispute or disagreement as provided within 12.1.1.3, Owner's Representative and Construction Manager's Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than ten (10) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

§ 12.2.1 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit within fourteen (14) days of the conclusion of the meeting of Senior Representatives the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. Unless otherwise mutually agreed by the Owner and Construction Manager and consistent with the mediator's schedule, the mediation shall commence within thirty (30) days of the submission of the dispute to mediation

§ 12.2.2 For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

- Arbitration pursuant to Article 15 of AIA Document A201-2017
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Construction Manager 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 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Final Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for the actual Cost of the Work and for services performed after execution of this Agreement and prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201-2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201-2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201-2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201-2017 shall not cause the Final Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and

Init.

- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

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

None

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased or shifted as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

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

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, 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 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, 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.

§ 14.2.2 The Owner may, without consent of the Construction Manager, 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 Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than two million dollars (\$ 2,000,000) for each occurrence and two million dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000) 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.

§ 14.3.1.3 The Construction Manager 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 that such

Init.

primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, 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.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000) each accident, one million dollars (\$ 1,000,000) each employee, and one million dollars (\$ 1,000,000) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than one million dollars (\$ 1,000,000) per claim and one million dollars (\$ 1,000,000) in the aggregate.

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

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

(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.)

§ 14.5 Attorney's Fees

If either party to this Agreement engages legal counsel to enforce any terms or conditions of this Agreement, the initiation of any arbitration, legal proceedings or the defense thereof including any appeals, the party, if any, prevailing on the more substantial part of its claims and defenses shall be entitled to prompt payment and reimbursement in full for its reasonable attorney's fees and expenses.

§ 14.6 Staff Commitment

The proposed staff including at a minimum, the Project Manager and Superintendent shall be committed to the Project full-time for the duration of the Project and shall not be reassigned without the Owner's prior written approval.

Init.

§ 14.7 **Alternates.** Owner-Requested Alternates shall include adjustments for Fee based on the adjustment in the Cost of the Work for the Alternate. Owner-Requested Alternates may include adjustments to the General Conditions costs only if the selection of the Alternate would substantially affect the construction schedule and staffing requirements. Construction Manager's Voluntary Alternates shall consider all related costs, including impacts to design and Owner's other costs that may be a result of implementation.

§ 14.8 The Owner intends to retain the selected Construction Manager for the Construction phase, but nothing contained herein shall obligate Owner to do so.

§ 14.9 **Interpretation.** This Agreement shall be interpreted and construed according to its fair meaning, without consideration as to which party drafted it.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction

(Paragraphs deleted)

.6 Other Exhibits:

(Check all boxes that apply.)

AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:

(Insert the date of the E234-2019 incorporated into this Agreement.)

Supplementary and other Conditions of the Contract:

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

.7 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager'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.)

Exhibit A – Guaranteed Maximum Price Amendment and supporting Attachments:

- .1 **Attachment A** – (Revised) Budget Summary, a detailed estimate stating the Fee, General Conditions costs (as a not-to-exceed), insurances and bond costs, as required;
- .2 **Attachment B** – Detailed General Conditions costs, (as a not-to-exceed amount)
- .3 **Attachment C** – Approved Labor Burden Rates;
- .4 **Attachment D** – Staff Assignment Matrix;

- .5 **Attachment E** – A list of allowances and unit prices;
- .6 **Attachment F** – Responsibility Matrix;
- .7 **Attachment G** – A list of the clarifications and qualifications
- .8 **Attachment H** – Project Schedule, including a detailed critical path Construction Schedule
- .9 **Attachment I** – Insurance Certificates;
- .10 **Attachment J** – Approved Lien Waivers Forms (Conditional and Unconditional, Partial and Final);
- .11 **Attachment K** – A list of the Drawings and Specifications, including all addenda and the Conditions of the Contract, which were used in preparation of the Final Guaranteed Maximum Price;
- .12 **Attachment L** – A list of all Construction Manager provided equipment along with billable rates; and
- .13 **Attachment M** – Owner Accepted Alternates.

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

OWNER *(Signature)*

(Printed name and title)



CONSTRUCTION MANAGER *(Signature)*

BRYAN HEMEYER - VP

(Printed name and title)

Additions and Deletions Report for **AIA[®] Document A133[™] – 2019**

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 13:13:08 CT on 02/28/2022.

PAGE 1

AGREEMENT made as of the 25th day of February in the year 2022

...

City of Northglenn, State of Colorado
11701 Community Center Drive
Northglenn, Colorado 80233

...

FCI Constructors, Inc.
4015 Coriolis Way
Fredrick, CO 80504

...

Civic Center Master Plan Phase II
Northglenn, Colorado

...

Anderson Mason Dale Architects, P.C
3198 Speer Boulevard
Denver, CO 80211

PAGE 2

The proposed City Hall facility is anticipated to have some unique design characteristics, due to its location within the NGCC site. The proposed building may be located adjacent to the city's Veteran's Memorial Plaza to the south and what is likely to be a multifamily community to the north. It is anticipated that the City Hall facility will be 2-3 stories in height and will house the main governmental and administrative functions of the city. The proposed City Hall building is envisioned as a 25,000 to 30,000 square foot facility. These square footages will need to be finalized following a space needs analysis, which is being developed at this time.

...

The new facility will be located at on a site within the Northglenn Civic Center Plan in Northglenn, CO

§ 1.1.3 The Owner's ~~budget~~ Approved Budget for the Initial Guaranteed Maximum Price, as defined in Article 6:

PAGE 3

The budget amount for the City Hall facility will be capped at \$18 million. This amount is to include all hard and soft costs, any necessary infrastructure, as well as the cost of construction and all finishes for the new City Hall facility.

...

Programming through Construction Documents - approximately 10 months

...

TBD

...

TBD

...

TBD

...

N/A

...

Eric Ensey
City of Northglenn, State of Colorado
11701 Community Center Drive
Northglenn, Colorado 80233-8061
PAGE 4

Jack Christensen
Cumming Management Group, Inc.
88 Inverness Circle East
Building G, Suite 101
Englewood CO 80112
jchristensen@cumming-group.com

...

Terracon
10625 West Interstate 70 Frontage Rd. N. #3
Wheat Ridge, CO 80033

...

.2 Civil Engineer:N/A:
N/A

...

<u>David Pfeifer, Principal-in-Charge</u>	<u>Joey Carrasquillo, Principal, Point-of-Contact</u>
<u>3198 Speer Boulevard</u>	<u>3198 Speer Boulevard</u>
<u>Denver, Colorado 80211</u>	<u>Denver, Colorado 80211</u>

...

(303) 294-9448

(303) 294-9448

...

Nathaniel Sperry
FCI Constructors, Inc.
4015 Coriolis Way
Frederick, CO 80504
(970) 535-4725

PAGE 5

See Attachment D – Staff Assignment Matrix

...

See Section 3.6.1.5.5 and Section 3.1.11

...

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. Upon the Owner's acceptance of the Construction Manager's Initial Guaranteed Maximum Price (IGMP) proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Initial Guaranteed Maximum Price proposal and executed in the Final Guaranteed Maximum Price Amendment (FGMP) Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

...

Based on the information provided by the Construction Manager through the selection process, the Construction Manager and their proposed staff have represented that they possess certain relevant experience and capabilities to deliver the Work at a stated level of performance with regard to this project type. The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and best professional judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Construction Manager shall perform its operations in an open book collaborative process during the Project, including Work performed through the General Conditions costs. An open book approach requires the Construction Manager to make available to the Owner, in detail, all correspondence, documentation and transactions related to the Project, in a timely manner in accordance with this Agreement. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager-Manager, to the extent available to the Owner, and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

...

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified and agreed to by Owner and Construction Manager, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017, as modified by Owner, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

PAGE 6

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager ~~shall identify~~ has identified a representative authorized to act on behalf of the Construction Manager with respect to the ~~Project~~ Project on page 1 of this Agreement.

...

§ 3.1.2 ~~The Construction Manager shall provide~~ At the time of execution of the Contract, the Construction Manager has provided a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

...

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as 3D Modeling, procedures, progress, coordination, and scheduling of the Work.

...

§ 3.1.4 Preliminary Project Schedule

~~When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule~~ The Construction Manager has already provided a Preliminary Project Schedule. The Construction Manager shall update the schedule in a critical path format for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval-concurrence for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate preconstruction and construction activities of the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify as well as identify major milestone items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the include, but not be limited to the following: submission of the Initial Guaranteed Maximum Price, milestone budget updates, and the Final Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

PAGE 7

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

§ 3.1.6 Construction Manager Selection / Cost Estimates

§ 3.1.6.1 ~~Based on the preliminary design and other design criteria prepared~~ As an element of the Construction Manager's selection process, the Construction Manager provided an initial rough order of magnitude estimate based on the level of design at the time of the selection process. Prior to further evolution of the design by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary work closely with the Architect and the Owner to ensure that the current design scope/intent and the Construction Manager's related initial cost estimate are in alignment with the Owner's current approved scope, as defined in the approved current design documents and the Owner's Approved Budget. Once the Construction Manager's initial cost estimate is approved by the Owner, this estimate shall become the Initial Guaranteed Maximum Price.

.1 The Construction Manager is required to develop an Initial Guaranteed Maximum Price bound report

including detailed estimates, assumptions in developing the report, project schedules, not-to-exceed General Conditions costs, approved billable rates and rental rates, and additional information as required by the Owner. The Construction Manager is not required to execute a formal guarantee of the Initial Guaranteed Maximum Price, however the Owner is relying on the accuracy and reasonableness of the Initial Guaranteed Maximum Price and therefore the Initial Guaranteed Maximum Price shall be the Construction Manager's most realistic estimate of what the Construction Manager believes will be the Project's final cost and the appropriate Project Schedule is once the design is complete and the Final Guaranteed Maximum Price is executed.

- .2 As the plans and specifications evolve through each design phase, the Construction Manager will perform cost studies and major estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques, using area, volume or similar estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggests suggest alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems. Any alternative materials or systems selected by the Owner, based on the cost evaluations provided by Construction Manager, shall then be incorporated into the updated budgets.
- .3 Once the Initial Guaranteed Maximum Price has been approved in writing by the Owner, the Construction Manager and the Architect shall work together throughout the evolution of the design to be certain that the Final Guaranteed Maximum Price and schedule remains within the approved Initial Guaranteed Maximum Price and schedule.
- .4 The Construction Manager's estimating and budgeting systems and reports shall be flexible to allow comparisons of building systems and components. They shall include a means to provide a variance analysis throughout each budget update starting with the Initial Guaranteed Maximum Price and continuing through the Final Guaranteed Maximum Price. The format of the estimating system shall include detail sheets for each Work task that reflect unit prices, quantities, and extensions for labor and materials. The Construction Manager shall set-up the estimate in a Construction Specifications Institute (CSI) format in a detailed open book collaborative manner that allows the Owner to make timely and informed decisions. Each budget shall also include a detailed list of relevant clarifications as they relate to the preparation of each budget update, and an updated Project Schedule. Allowances are to be clearly identified within each budget update on a separate summary level report at each design phase.
- .5 The Construction Manager may involve key Subcontractors during the evolution of the design documents to assist with budgeting and design solutions; however, the Construction Manager may not award or commit work to a Subcontractor other than through a competitive selection process during the development of the Final Guaranteed Maximum Price, unless specifically approved otherwise in writing by the Owner.
- .6 In the event the Construction Manager's proposed Final Guaranteed Maximum Price or Project Schedule exceeds the approved Initial Guaranteed Maximum Price, if the Owner so directs, the Construction Manager and the Architect shall work together to bring the Project back within the Owner's Approved Budget and schedule, based on the Owner's written acceptance of the 100% Construction Documents. If the Final Guaranteed Maximum Price or Project Schedule exceeds the Initial Guaranteed Maximum Price or Project Schedule for that Phase, then the Construction Manager and the Architect shall work together to bring the Work within the Initial Guaranteed Maximum Price and Project Schedule through means and methods, value engineering and acceptable alternates or other means appropriate to reduce the cost. The Construction Manager's expenses associated with this effort shall be the sole responsibility of the Construction Manager and Owner shall have no obligation to pay or reimburse any expenses associated with assisting the Owner to bring the project within budget.
- .7 At the time of establishment of the Initial Guaranteed Maximum Price, the General Conditions estimate will be converted to a guaranteed maximum amount within the Initial Guaranteed Maximum Price. General Conditions costs may only be increased or decreased by Change Order.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, Documents as appropriate, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, design including multiple cost studies on alternate systems and materials, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Final Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval using estimating systems and procedures which are acceptable to the Owner. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, Initial Guaranteed Maximum Price, and make recommendations for corrective action. The Owner, Architect and Construction Manager shall determine the corrective action to be taken and shall incorporate the results of these corrective actions into the Final Guaranteed Maximum Price for the Work.

PAGE 8

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.1.2 The Construction Manager shall develop bidders' interest in the Project. The Construction Manager shall furnish to the Owner and Architect for review and approval, a list of proposed Subcontractors and material suppliers who are to furnish materials or equipment from whom bids will be requested for each principal portion of the Work. The Owner or Architect will promptly reply in writing to the Construction Manager if the Owner or Architect knows of any objection to such Subcontractor or material supplier. The receipt of such list shall not require the Owner or Architect to investigate the qualifications of proposed Subcontractors or suppliers, nor shall it waive the right of the Owner or Architect later to object to or reject any proposed Subcontractor or supplier.

§ 3.1.11.1.3 The Final Guaranteed Maximum Price shall be established by incorporating the Construction Manager's General Condition costs approved during the Construction Manager selection process. Construction Manager shall competitively bid all Direct Work to a minimum of three (3) Subcontractors for each subcontracted scope of Work unless the Owner agrees otherwise in advance in writing. Once bids are received, the Construction Manager shall share the results of the bidding process with the Owner and Architect and make recommendations on the selection of the Subcontractor or material supplier based on cost, schedule, and other factors that will maximize the success of the total Project. For specific major trades, the Construction Manager must notify the Owner in a timely fashion when it intends to conduct scope confirmation meetings with the final bidders. The Owner may at its sole discretion elect to participate in scope confirmation meetings with the Construction Manager and the key Subcontractors. The Construction Manager shall share detailed bid tabs and discuss scopes of Work, upon Owner request.

§ 3.1.11.2. Direct Work shall be defined as actual Work described in Article 7 of this Agreement that has not already been secured through the General Conditions costs. The Direct Work shall be performed by Subcontractors material suppliers, and Self-Perform Work under a subcontract agreement.

§ 3.1.11.2.1 Self-Perform Work means Direct Work performed by the Construction Manager's own forces. In the event the Construction Manager prefers to perform Work for any principal portions of the Work, other than General Conditions or emergency safety activities, with its own forces, the Construction Manager must secure this Work through a competitive process approved by the Owner. Construction Manager may not perform Direct Work with its own forces unless Owner approves, in its sole and absolute discretion. The Owner shall be entitled to require Construction Manager to obtain competitive bids from at least two (2) additional qualified and approved Subcontractors or general trades contractors. The Construction Manager shall work with the designer to develop a general trades package to assure that numerous miscellaneous scopes of Work can be competitively bid to Subcontractors or smaller general contractors. The Construction Manager shall submit its own bid to the Owner at least four (4) hours prior to the time the Subcontractors' sealed bids are due. The Construction Manager's and Subcontractors' bids shall then be opened simultaneously in the presence of the Owner and Construction Manager, who shall jointly analyze the bids for price, thoroughness, schedule, proposed staff and relevant expertise. The Owner shall be entitled to determine, in its best interest and with sole and absolute discretion, whether Construction Manager's request to Self-Perform Work will be authorized. Owner may require the Work to be performed by a Subcontractor regardless of whether it appears that Construction Manager can perform Self-Perform Work in accordance with the requirements of the Contract Documents applicable thereto. There may be limited scopes of Work that the Owner may approve to be performed by the Construction Manager that are not secured through a competitive

process.

§ 3.1.11.2.2 Construction Manager shall administer and account for all costs, management and financial tracking of any Self-Perform Work as though it were being performed under a separate subcontract. If Self-Perform Work is awarded to Construction Manager through a competitive bidding process, the pricing for such Work shall be in accordance with the Construction Manager's bid (subject to the Final Guaranteed Maximum Price). If Self-Perform Work is awarded to Construction Manager without competitive bidding for limited scopes of work, such Work shall be billed at Construction Manager's actual direct cost exclusive of any further markups for profit, overhead, General Conditions costs or other fees, other than the Construction Manager's Fee as stated in article 6 of this agreement.

§ 3.1.11.2.3 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Final Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Final Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager, the cost of which shall be included within the Final Guaranteed Maximum Price, and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.11.4 Selection of Mechanical, Electrical and Plumbing Subcontractors.

With the Owner's prior approval, the Construction Manager, working in collaboration with the Owner and Architect, will promptly implement a formal competitive selection process, approved by the Owner, for each of the Mechanical, Electrical, Plumbing and Fire Protection Subcontractors. The Construction Manager shall submit to the Owner for review and approval, the list of Mechanical, Electrical, Plumbing and Fire Protection Subcontractors from which the Construction Manager proposes to request participation. This Work shall be secured either through lump sum bids or with the Owner's prior approval, the successful Subcontractors may be added to the Project under a separate Guaranteed Maximum Price (GMP) Subcontract Agreement and their estimates will be incorporated within the Construction Manager's GMP. The Construction Manager shall be required to obtain a contractual commitment from each such subcontractor that each Bid Package will be performed at competitive market prices. If at any time, the Construction Manager or Owner believes that a Bid Package pricing is not within competitive market pricing, the Construction Manager will secure additional competitive pricing, as directed by the Owner.

§ 3.1.11.5 The Subcontractor list shall be divided into major Subcontractors (subcontracts that equal or exceed (\$25,000) and minor Subcontractors (subcontracts that are less than \$25,000). There will be no commitment made to any Subcontractors, including Mechanical, Electrical, Plumbing, and Fire Protection trades, until the Final Guaranteed Maximum Price is approved, unless specifically authorized in writing by the Owner. At the Owner's sole discretion, the Owner reserves the right to require the Construction Manager to obtain approval prior to entering into any financial obligations, subcontract agreement or purchase order with any subcontractors and material suppliers in excess of \$25,000. In such event, the Construction Manager must prepare Authorization Letters and submit to the Owner for written approval in a form approved by the Owner. The Authorization Letters must clearly state the Scope of Work to be completed, the Cost of the Work to be released (including any holds), the comparison to the costs to the costs carried in the IGMP or in the FGMP for this Work, the cost of the subcontractor's bond, if required, and any impact that this Work may have on the approved Project Schedule. These Authorization Letters must have a clear and complete link to the FGMP for cost tracking purposes.

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Final Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

PAGE 10

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental ~~authorities~~ authorities for inclusion in the Contract Documents.

...

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this ~~document~~ document.

...

§ 3.2 Final Guaranteed Maximum Price Proposal

§ 3.2.1 ~~At a time to be mutually agreed upon by the Owner and the Construction Manager, When the design is sufficiently complete to describe the clear intent and scope of the Project, ideally at the Permit Documents phase or the Construction Documents phase,~~ the Construction Manager shall prepare a Final Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's ~~acceptance~~ acceptance, which shall then be incorporated into this agreement as Exhibit A – Guaranteed Maximum Price Amendment. The Guaranteed Maximum Price in the proposal shall be the sum of the Subcontractors and material supplier's bids along with Construction Manager's estimate of the Cost of ~~the Work, additional Work, not yet secured, along with,~~ the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Final Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Final Guaranteed Maximum Price proposal a written statement of its basis, which shall include the ~~following~~ following, in a format approved by the Owner:

Exhibit A – Guaranteed Maximum Price Amendment; and Attachments:

- ~~.1~~ A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract; Attachment A – (Revised) Budget Summary, a detailed estimate stating the Fee (converted to a lump sum), General Conditions costs (as a not-to-exceed), insurances and bond costs, as required;
- ~~.2~~ Attachment B – Detailed General Conditions costs, (as a not-to-exceed amount)
- ~~.3~~ Attachment C – Approved Labor Burden Rates;
- ~~.4~~ Attachment D – Staff Assignment Matrix;
- ~~.5~~ Attachment E – A list of allowances and unit prices;
- ~~.6~~ Attachment F – Responsibility Matrix;
- ~~.7~~ Attachment G – A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2; qualifications;
- ~~.8~~ A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- ~~.9~~ Attachment H – Project Schedule, including a detailed critical path Construction Schedule;
- ~~.10~~ Attachment I – Insurance Certificates;
- ~~.11~~ Attachment J – Approved Lien Waivers Forms (Conditional and Unconditional, Partial and Final);
- ~~.12~~ The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and,
- ~~.13~~ Attachment K – A list of the Drawings and Specifications, including all addenda;
- ~~.14~~ A date by which the Owner must accept the Guaranteed Maximum Price;
- ~~.15~~ Attachment L – A list of all Construction Manager provided equipment along with billable rates; and,
- ~~.16~~ Attachment M – Owner Accepted Alternates.

§ 3.2.4 In preparing the Construction Manager's Final Guaranteed Maximum Price proposal, the Construction Manager shall include a ~~contingency~~ Construction Manager's Contingency for the Construction Manager's exclusive use to cover ~~these costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line~~

item or included in a Change Order costs arising under Section 3.2.2 and 3.2.4.2, and other unanticipated costs which are properly considered reimbursable as a Cost of the Work but do not form the basis for a Change Order as a result of changes in the scope of the Work. The Construction Manager's Contingency shall not exceed five percent (5%) for the Initial Guaranteed Maximum Price, and shall not exceed three percent (3%) for the Final Guaranteed Maximum Price. No Fee is added to the Construction Manager's Contingency at the time the FGMP is prepared.

§ 3.2.4.1 The Construction Manager shall report and reconcile the Construction Manager's Contingency to the Owner on a monthly basis. All Construction Manager Contingencies shall include Direct Cost of Work, including labor, materials, equipment, delivery to the site, insurance, bonds and permits as required, and include the Construction Manager's Fee. The allocation of the contingency shall not increase the Final Guaranteed Maximum Price.

§ 3.2.4.2 Access to the Contractor's Contingency requires the Owner's written approval. The Owner shall not unreasonably withhold approval of a Change Order to utilize the Construction Manager's Contingency so long as (a) the contingency amount accessed does not cause the Final Guaranteed Maximum Price to be exceeded (b) the Construction Manager utilizes the Construction Manager's Contingency for items required for the Project that are not otherwise recoverable as Costs of the Work under the Contract Documents, and (c) the Construction Manager's Contingency is used for any items outlined in clauses .1 through .3 below:

- .1 Scope of the Work that is unclear, incomplete or conflicting on the Contract Documents but is Work consistent with the Contract Documents and reasonably inferable as being necessary to produce the intended results for a complete Project.
- .2 Additional resources necessary to recover lost time. If overtime is required to maintain the schedule, the Construction Manager shall obtain the Owner's prior written approval before moving forward with such overtime.
- .3 Delays caused by market, labor, material or transportation conditions, labor disputes, abnormal weather or other causes which are costs of the Work but do not justify an increase in the FGMP.

§ 3.2.4.3 The Construction Manager's Contingency is not available for use by the Construction Manager for mistakes that result from Self-Perform Work secured through competitive bidding, mistakes of subcontractors or material suppliers, or any warranty work.

§ 3.2.4.4 The Construction Manager's Contingency is not available for use by the Owner for allowance overruns, changes in the Scope of Work, differing or changed site conditions.

§ 3.2.4.5 At Final Completion of the Project, any unused portion of the Construction Manager's Contingency remaining in the Final Guaranteed Maximum Price will be returned 100% to the Owner.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Final Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Final Guaranteed Maximum Price proposal, its basis, or both. If the Final Guaranteed Maximum Price exceeds the Initial Guaranteed Maximum Price, the Construction Manager will work with the Architect and the team to bring the project back within budget in a timely manner, at no additional cost to the Owner for Preconstruction Services.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the ~~Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal,~~ Final Guaranteed Maximum Price proposal in writing, the Final, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Exhibit A - Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Final Guaranteed Maximum Price Amendment shall set forth the agreed upon (Final) Guaranteed Maximum Price with the information and assumptions qualifications upon which it is based.

PAGE 12

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Exhibit A - Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction

Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Final Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Final Guaranteed Maximum Price Amendment is executed.

...

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work ~~shall mean the date of commencement of the Construction Phase on the Project~~ requires a separate Notice-to-Proceed with construction.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Final Guaranteed Maximum Price Amendment ~~or, and,~~ prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Final Guaranteed Maximum Price Amendment.

...

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall ~~prepare~~ update and submit to the Owner and Architect a construction schedule for the Work and ~~a~~ an updated submittal schedule in accordance with Section 3.10 of A201–2017.

PAGE 14

The Owner ~~shall identify~~ has designated a representative authorized to act on behalf of the Owner with respect to the ~~Project~~ Project on page 1 of the AIA A133-2019. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

...

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document ~~B133™–2019, B103™–2019~~, Standard Form of Agreement Between Owner and Architect, ~~Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement.~~ including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

...

§ 5.1.1 The Preconstruction Phase and Construction Phase may run concurrently. Preconstruction Phase Services are identified as a separate cost, which shall be included as a not-to-exceed amount. For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager ~~as follows: based on the actual services provided by the Construction Manager.~~ (Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

The not to exceed amount for Preconstruction Phase Services is: Fifty Four Thousand, Eight Hundred and Fifty Four Dollars (54,854.00)

...

See Attachment C – Approved Labor Burden Rates

...

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification. No Fee on these services shall not be allowed.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within nine (9) months of the date of this Agreement, through no fault of the Construction Manager, and the not-to-exceed preconstruction fee has been exhausted, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

PAGE 15

§ 5.2.2 Payments are due and payable upon presentation-approval of the Construction Manager's invoice. Amounts unpaid forty-five (45) days after the invoice date is approved by the Owner shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

(Insert rate of monthly or annual interest agreed upon.)

~~—%—6~~ % six per annum

~~ARTICLE 6 — COMPENSATION FOR CONSTRUCTION PHASE SERVICES~~

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Final Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

...

~~(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)~~ Fee shall be calculated as a percent of the reimbursable Cost of the Work, including but not limited to Allowances and General Conditions costs. This Fee shall be the entire Fee the Construction Manager shall receive for this Project for Construction Services, except for Self-Perform Work secured in competition and Construction Manager's Contingency. The Construction Manager shall not include Fee or administrative mark-ups directly within hourly billing rates, rental rates, on Preconstruction Phase Services, insurance, bond premiums, or on permit fees.

The Construction Manager shall be paid a Fee of two point nine percent (2.9%) of the Cost of the Work.

...

The Construction Manager shall be paid a Fee of two point nine percent (2.9%) of the Cost of the Work for changes in the Work.

§ 6.1.3.1 Fee shall be increased or decreased under the following conditions:

- .1 On Change Orders approved by the Owner in writing.
- .2 For additive change orders, the Construction Manager's Fee will be increased by the same percentage used to calculate the Fee in §6.1.2.
- .3 For deductive change orders, the Construction Manager's Fee will be decreased by the same percentage used to calculate the Fee in §6.1.2.
- .4 Fee on Self-Perform Work, included in the Construction Manager's Bid for Self-Perform Work, if it is awarded through the competitive bidding process. The Construction Manager's Fee on Self-Perform Work shall be the Fee included within the Self-Perform Work Bid and not governed by §6.1.2.
- .5 In the event that the Owner allows a limited amount of Self-Performed Work to be awarded outside of a competitive process, this Self-Perform Work shall be governed by a self-perform fee at a rate of 10% in addition to the Fee as stated in §6.1.2.

.6 Fee on Construction Manager's Contingency when such Contingency is moved to individual line items in a Change Order approved by the Owner will be governed by and at the same Fee rate as stated in §6.1.2. (the Fee shall be within the amount reallocated).

...

§ 6.1.4.1 The maximum allowable mark-up for Change Orders by Subcontractors for Self-Performed Work shall be ten percent (10%) for overhead plus five percent (5%) for profit (a total of 15%). The maximum allowable mark-up by the Subcontractor on its sub-subcontractors shall be five percent (5%).

§ 6.1.4.2 The maximum allowable mark-up for Change Orders by sub-subcontractors for Self-Performed Work shall be ten percent (10%) for overhead plus five percent (5%) for profit (a total of 15%). The maximum allowable mark-up by the sub-subcontractor on its sub-subcontractors shall be five percent (5%).

§ 6.1.4.3 The total maximum allowable mark-up by a Subcontractor and sub-subcontractors for change orders shall be twenty percent (20%).

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed percent (%) of the standard rental rate paid standard industry rates paid by the Construction Manager at the place of the Project.

PAGE 16

Construction Manager understands that if the Substantial Completion Date is not attained by the scheduled date of Substantial Completion, the Owner will suffer damages which are difficult to determine and accurately specify. Construction Manager agrees that if the Substantial Completion Date is not met, the Construction Manager shall pay Owner Three Thousand Five Hundred Dollars (\$3,500.00) per day as liquidated damages for each day that Substantial Completion extends beyond the scheduled date of Substantial Completion.

...

§ 6.2 Final Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Final Guaranteed Maximum Price set forth in the Final Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Final Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

...

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. All savings remaining between the actual Final Contract Sum and the Final Guaranteed Maximum Price shall revert 100% to the Owner.

...

§ 6.3.2 Adjustments to the Final Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction.

...

§ 6.3.4 In calculating adjustments to the Final Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201-2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement. Subcontract and purchase orders adjustments shall not be made without either a guaranteed maximum price or a fixed price.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes the extent of the changes in the Work is such, in the aggregate,

that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

PAGE 17

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site ~~workshops~~ workshops in accordance with the approved hourly billing rates reflected in Exhibit A, attached hereto, which include all labor burden. Labor costs must be supported through Certified Payrolls.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval, in accordance with the approved wages, salaries or hourly billing rates reflected in Exhibit A, attached hereto, which include all fringe benefits and labor burden. With the prior approval of the Owner, certain accounting or estimating personnel assigned to the Project may be reimbursed for all or part of their time when stationed at the Construction Manager's principal office, if included in the not-to-exceed General Conditions Costs. Labor costs must be supported through Certified Payrolls. Under no circumstances shall salaried employees be compensated for overtime without the Owner's prior written approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, ~~and limited to the personnel and activities listed below:~~
(Identify the personnel, type of activity and, if applicable, any agreed-upon percentage of time to be devoted to the Work.)
in accordance with the hourly billing rates reflected in Exhibit A, attached hereto, which include all fringe benefits and labor burden. Labor costs must be supported through Certified Payrolls. Under no circumstances shall salaried employees be compensated for overtime without the Owner's prior written approval.

...

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the ~~Work~~ Work, in accordance with the hourly billing rates reflected in Exhibit A, attached hereto, which include all fringe benefits and labor burden. Labor costs must be supported through Certified Payrolls. Under no circumstances shall salaried employees be compensated for overtime without the Owner's prior written approval.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs ~~are based on wages and salaries~~ must be included in the approved wages, salaries or hourly billing rates reflected in Exhibit A and must be included in the Cost of the Work under Sections 7.2.1 through 7.2.3. The Construction Manager shall not include Fee, vehicle allowance, cell phones, or administrative mark-ups directly within wages, salaries or hourly billing rates. Labor costs must be supported through Certified Payrolls.

PAGE 18

§ 7.5.6 The Construction Manager shall provide for temporary office space and utilities for one (1) staff member between the Owner and the Architectural team within the temporary office compound, and include these costs within the General Conditions estimate. The Construction Manager shall provide internet connectivity but will not be required to provide computers for the Owner or Architect. This space shall include desks, chairs and miscellaneous supplies as well as provide access to copiers and printers in a clean and well-lit environment.

...

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior written approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior written approval.

...

~~§ 7.6.3 Fees and assessments for the building permit, and~~ The Owner shall pay the cost of the building permits and plan review fees, in accordance with Exhibit A. Construction Manager shall be reimbursed for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

PAGE 19

§ 7.6.6 Costs for communications services, electronic equipment, and software, ~~directly specifically~~ related to the Work and located at the site, with the Owner's prior approval.

...

~~§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld. Intentionally deleted.~~

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval. Owner will not pay for relocation and temporary living unless these expenses were clearly included within the proposed General Conditions costs at the time of selection of the Construction Manager and have been approved in writing by the Owner.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work. Travel expenses must be approved in writing by the Owner prior to the expense being incurred. Payment for Travel and Business Related Expenses shall be reimbursed at actual costs without mark-ups. Travel expenses for the Construction Manager's Executives and Officers will not be reimbursed under any circumstances, unless they are assigned full-time on-site to the Project.

PAGE 20

- .1 Salaries and other compensation of the Construction Manager's Project Executive and personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;

...

- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase. Phase performed prior to execution of the Contract;
- .10 Costs associated with establishing a local presence or in the development of an association with a local firm; and
- .11 Expenses incurred for relocation or temporary living allowances of the Construction Manager's personnel required for the Work, unless included within the General Conditions costs.

PAGE 21

~~The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment,~~

~~or for such longer period as may be required by law.~~ § 10.1 The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ 10.2 Equipment purchased and charged to the Project as a Cost of the Work shall become the property of the Owner. Any lease/purchase rental arrangements must be disclosed to the Owner in a timely manner. If the Construction Manager purchases equipment under a lease/purchase arrangement whereby rental payments are charged to Owner as a Cost of the Work, an appropriate credit shall be given to the Owner for the fair market value of the equipment at the time it was last used on the Project. For Construction Manager-owned equipment, the Construction Manager shall maintain daily equipment usage reports. The equipment use reports shall be used by the Construction Manager to determine the most economical billing rate (hourly, weekly, monthly) to the Owner.

...

~~§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.~~ The Construction Manager shall, during the last week of each month, meet with the Architect and Owner, and/or other parties designated by the Owner, to review and approve an itemized draft "Pencil Draw" pay request indicating the total estimated value of the Work completed through the end of the current calendar month including the value of all material and equipment suitably stored at the jobsite or at an approved location. Such draft will set forth the dollar amounts of completion of each portion of the Work, including a prorated share of the Construction Manager's Fee less applicable retention. The approved draft will then be formalized into a formal Application for Payment, and will be submitted to the Owner for processing.

~~§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:~~ Pencil Draw request shall include detailed documentation supporting the amount requested, including at least the following: subcontractor detail applications, invoices, ledgers, payroll documentation, and all other information requested by Owner and relevant to a complete "Open Book" guaranteed maximum price delivery method where all costs must be justified prior to reimbursement. Each application for payment must include waivers of Liens per the terms of this Agreement.

...

~~§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than () days after the Architect receives the Application for Payment.~~ Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

...

~~§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.~~ The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee. Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than thirty (30) days after the receipt and Owner approval of the Application for Payment. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment, and the Owner approves the Application for Payment.

§ 11.1.5.1 Each Application for Payment shall be based on the most recent Owner approved schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Final Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner and Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. When requested by the Owner, the Construction Manager shall submit payrolls, and with each Application for Payment, the Construction Manager shall submit petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values, values with the exception of the detailed General Conditions costs, which are a not to exceed amount.

PAGE 22

§ 11.1.6 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. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, Payment and justified by requisite documentation, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

...

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the supported by proper documentation by the share of the Final Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Final Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

PAGE 23

five percent (5%) of the Cost of the Work

...

Construction Manager's Fee

...

At the Owner's sole discretion, if the Work is proceeding to the satisfaction of the Owner, retainage may be reduced or discontinued on a case by case basis based on the quality and level of completeness of a subcontractor's Work.

...

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

...

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Owner and the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

PAGE 24

.4 a final Certificate of Occupancy has been issued by the municipality having authority.

...

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for ~~Payment~~ Payment and approved by the Owner.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, ~~or as follows:~~ and approval by Owner.

...

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the ~~Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.~~ Final Guaranteed Maximum Price.

...

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201-2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, ~~no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.~~ the Owner shall determine the actual value received from the Construction Manager's Preconstruction services.

The Construction Manager shall be compensated for these services based on the actual value that the Owner receives up to the maximum amount allowed for the Preconstruction services.

§ 12.1.1.2 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Construction Manager and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

§ 12.1.1.3 Construction Manager and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Construction Manager's Representative and Owner's Representative which shall conclude within five (5) days of the written notice by one party to the other, unless the Owner and Construction Manager mutually agree otherwise.

PAGE 25

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

...

~~For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows: In the event that the parties to this Agreement are unable to resolve a dispute or disagreement as provided within 12.1.1.3, Owner's Representative and Construction Manager's Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than ten (10) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.~~

§ 12.2.1 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit within fourteen (14) days of the conclusion of the meeting of Senior Representatives the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. Unless otherwise mutually agreed by the Owner and Construction Manager and consistent with the mediator's schedule, the mediation shall commence within thirty (30) days of the submission of the dispute to mediation

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

...

[] Litigation in a court of competent jurisdiction

...

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Final Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for ~~Preconstruction Phase services and Work performed~~ the actual Cost of the Work and for services performed after execution of this Agreement and prior to receipt of a notice of termination, in accordance with the

terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

PAGE 26

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4: follows:

...

- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; 6.1; and

...

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201-2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201-2017 shall not cause the Final Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

PAGE 27

None

...

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased or shifted as provided in Article 14 of AIA Document A201-2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

...

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than two million dollars (\$ 2,000,000) for each occurrence and two million dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000) 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.

PAGE 28

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000) each accident, one million dollars (\$ 1,000,000) each employee, and one million dollars (\$ 1,000,000) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than one million dollars (\$ 1,000,000) per claim and one million dollars (\$ 1,000,000) in the aggregate.

...

§ 14.5 ~~Other provisions:~~ Attorney's Fees

If either party to this Agreement engages legal counsel to enforce any terms or conditions of this Agreement, the initiation of any arbitration, legal proceedings or the defense thereof including any appeals, the party, if any, prevailing on the more substantial part of its claims and defenses shall be entitled to prompt payment and reimbursement in full for its reasonable attorney's fees and expenses.

§ 14.6 Staff Commitment

The proposed staff including at a minimum, the Project Manager and Superintendent shall be committed to the Project full-time for the duration of the Project and shall not be reassigned without the Owner's prior written approval.

§ 14.7 Alternates. Owner-Requested Alternates shall include adjustments for Fee based on the adjustment in the Cost of the Work for the Alternate. Owner-Requested Alternates may include adjustments to the General Conditions costs only if the selection of the Alternate would substantially affect the construction schedule and staffing requirements. Construction Manager's Voluntary Alternates shall consider all related costs, including impacts to design and Owner's other costs that may be a result of implementation.

§ 14.8 The Owner intends to retain the selected Construction Manager for the Construction phase, but nothing contained herein shall obligate Owner to do so.

§ 14.9 Interpretation. This Agreement shall be interpreted and construed according to its fair meaning, without consideration as to which party drafted it.

PAGE 29

.5 — 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.)

...

Exhibit A – Guaranteed Maximum Price Amendment and supporting Attachments:

- .1 Attachment A – (Revised) Budget Summary, a detailed estimate stating the Fee, General Conditions costs (as a not-to-exceed), insurances and bond costs, as required;
- .2 Attachment B – Detailed General Conditions costs, (as a not-to-exceed amount)
- .3 Attachment C – Approved Labor Burden Rates;
- .4 Attachment D – Staff Assignment Matrix;
- .5 Attachment E – A list of allowances and unit prices;
- .6 Attachment F – Responsibility Matrix;
- .7 Attachment G – A list of the clarifications and qualifications
- .8 Attachment H – Project Schedule, including a detailed critical path Construction Schedule
- .9 Attachment I – Insurance Certificates;
- .10 Attachment J – Approved Lien Waivers Forms (Conditional and Unconditional, Partial and Final);
- .11 Attachment K – A list of the Drawings and Specifications, including all addenda and the Conditions of the Contract, which were used in preparation of the Final Guaranteed Maximum Price;
- .12 Attachment L – A list of all Construction Manager provided equipment along with billable rates; and
- .13 Attachment M – Owner Accepted Alternates.

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

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:13:08 CT on 02/28/2022 under Order No. 4664365076 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Civic Center Master Plan Phase II
Northglenn, Colorado

THE OWNER:

(Name, legal status and address)

City of Northglenn, State of Colorado
11701 Community Center Drive
Northglenn, Colorado 80233

THE ARCHITECT:

(Name, legal status and address)

Anderson Mason Dale Architects, P.C
3198 Speer Boulevard
Denver, CO 80211

TABLE OF ARTICLES

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

ADDITIONS AND DELETIONS:

The author of this document 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.

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES

Int.

INDEX

(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3

Access to Work

3.16, 6.2.1, 12.1

Accident Prevention

10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5, 10.2.8, 13.3.2, 14.1, 15.1.2, 15.2

Addenda

1.1.1

Additional Costs, Claims for

3.7.4, 3.7.5, 10.3.2, 15.1.5

Additional Inspections and Testing

9.4.2, 9.8.3, 12.2.1, **13.4**

Additional Time, Claims for

3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.6**

Administration of the Contract

3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances

3.8

Applications for Payment

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10

Approvals

2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9, 3.12.10.1, 4.2.7, 9.3.2, 13.4.1

Arbitration

8.3.1, 15.3.2, **15.4**

ARCHITECT

4

Architect, Definition of

4.1.1

Architect, Extent of Authority

2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2, 9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1, 13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, 15.2.1

Architect, Limitations of Authority and Responsibility

2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2, 9.5.4, 9.6.4, 15.1.4, 15.2

Architect's Additional Services and Expenses

2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 3.7.4, 15.2, 9.4.1, 9.5

Architect's Approvals

2.5, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.1.7, 1.5

Architect's Decisions

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1, 13.4.2, 15.2

Architect's Inspections

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.4

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, 15.2

Architect's Relationship with Subcontractors

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.6.8, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1

Binding Dispute Resolution

8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5, 15.2.6.1, 15.3.1, 15.3.2, 15.3.3, 15.4.1

Bonds, Lien

7.3.4.4, 9.6.8, 9.10.2, 9.10.3

Bonds, Performance, and Payment

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**, 11.1.3, **11.5**

Building Information Models Use and Reliance

1.8

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4

Certificates of Inspection, Testing or Approval
13.4.4

Certificates of Insurance
9.10.2

Change Orders

1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3, 7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1, 9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2

Change Orders, Definition of
7.2.1

CHANGES IN THE WORK

2.2.2, 3.11, 4.2.8, **7**, **7.2.1**, 7.3.1, 7.4, 8.3.1, 9.3.1.1, 11.5

Claims, Definition of
15.1.1

Claims, Notice of
1.6.2, 15.1.3

CLAIMS AND DISPUTES

3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4
Claims and Timely Assertion of Claims
15.4.1

Claims for Additional Cost

3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, **15.1.5**

Claims for Additional Time

3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, **15.1.6**

Concealed or Unknown Conditions, Claims for
3.7.4

Claims for Damages

3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3, 11.3.2, 14.2.4, 15.1.7

Claims Subject to Arbitration
15.4.1

Cleaning Up
3.15, 6.3

Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, **15.1.5**

Commencement of the Work, Definition of
8.1.2

Communications
3.9.1, **4.2.4**

Completion, Conditions Relating to
3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1, 9.10, 12.2, 14.1.2, 15.1.2

COMPLETION, PAYMENTS AND **9**

Completion, Substantial
3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2

Compliance with Laws
2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3, 15.2.8, 15.4.2, 15.4.3

Concealed or Unknown Conditions

3.7.4, 4.2.8, 8.3.1, 10.3

Conditions of the Contract

1.1.1, 6.1.1, 6.1.4

Consent, Written

3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2, 15.4.4.2

Consolidation or Joinder
15.4.4

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

1.1.4, **6**

Construction Change Directive, Definition of
7.3.1

Construction Change Directives

1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, **7.3**, 9.3.1.1

Construction Schedules, Contractor's

3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Contingent Assignment of Subcontracts
5.4, 14.2.2.2

Continuing Contract Performance
15.1.4

Contract, Definition of
1.1.2

CONTRACT, TERMINATION OR SUSPENSION OF THE

5.4.1.1, 5.4.2, 11.5, **14**

Contract Administration

3.1.3, 4, 9.4, 9.5

Contract Award and Execution, Conditions Relating to

3.7.1, 3.10, 5.2, 6.1

Contract Documents, Copies Furnished and Use of
1.5.2, 2.3.6, 5.3

Contract Documents, Definition of
1.1.1

Contract Sum

2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4, **9.1**, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.5, 12.1.2, 12.3, 14.2.4, 14.3.2, 15.1.4.2, **15.1.5**, **15.2.5**

Contract Sum, Definition of
9.1

Contract Time

1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5, 7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7, 7, 7.3.10, 7.4, 8.1.1, 8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2, 14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5

Contract Time, Definition of
8.1.1

CONTRACTOR
3

Contractor, Definition of

3.1, **6.1.2**

Contractor's Construction and Submittal Schedules

3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2

Contractor's Employees
2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2,
10.3, 11.3, 14.1, 14.2.1.1

Contractor's Liability Insurance 11.1

Contractor's Relationship with Separate Contractors
and Owner's Forces
3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4

Contractor's Relationship with Subcontractors
1.2.2, 2.2.4, 3.3.2, 3.18.1, 3.18.2, 4.2.4, 5, 9.6.2, 9.6.7,
9.10.2, 11.2, 11.3, 11.4

Contractor's Relationship with the Architect
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2,
3.5.1, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.2, 5.2, 6.2.2,
7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3,
11.3, 12, 13.4, 15.1.3, 15.2.1

Contractor's Representations
3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2

Contractor's Responsibility for Those Performing the
Work

3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8

Contractor's Review of Contract Documents
3.2

Contractor's Right to Stop the Work
2.2.2, 9.7

Contractor's Right to Terminate the Contract
14.1

Contractor's Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2,
9.8.3, 9.9.1, 9.10.2, 9.10.3

Contractor's Superintendent
3.9, 10.2.6

Contractor's Supervision and Construction
Procedures
1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3,
7.3.4, 7.3.6, 8.2, 10, 12, 14, 15.1.4

Coordination and Correlation
1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1

Copies Furnished of Drawings and Specifications
1.5, 2.3.6, 3.11

Copyrights
1.5, 3.17

Correction of Work
2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, 12.2, 12.3,
15.1.3.1, 15.1.3.2, 15.2.1

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

**Cost, Definition of
7.3.4**

Costs
2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3,
7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.2,
12.1.2, 12.2.1, 12.2.4, 13.4, 14

**Cutting and Patching
3.14, 6.2.5**

Damage to Construction of Owner or Separate
Contractors

3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damage to the Work
3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damages, Claims for
3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2,
11.3, 14.2.4, 15.1.7

Damages for Delay
6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2

**Date of Commencement of the Work, Definition of
8.1.2**

**Date of Substantial Completion, Definition of
8.1.3**

**Day, Definition of
8.1.4**

Decisions of the Architect
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4,
7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2,
14.2.2, 14.2.4, 15.1, 15.2

Decisions to Withhold Certification

9.4.1, 9.5, 9.7, 14.1.1.3

Defective or Nonconforming Work, Acceptance,
Rejection and Correction of
2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3,
9.10.4, 12.2.1

Definitions
1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1,
6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1

**Delays and Extensions of Time
3.2, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7,
10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5**

**Digital Data Use and Transmission
1.7**

Disputes
6.3, 7.3.9, 15.1, 15.2

**Documents and Samples at the Site
3.11**

**Drawings, Definition of
1.1.5**
Drawings and Specifications, Use and Ownership of
3.11

Effective Date of Insurance
8.2.2

**Emergencies
10.4, 14.1.1.2, 15.1.5**

Employees, Contractor's
3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2,
10.3.3, 11.3, 14.1, 14.2.1.1

Equipment, Labor, or Materials
1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3,
9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2

Execution and Progress of the Work
1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1,
3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1,
9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4

Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2,
10.4, 14.3, 15.1.6, **15.2.5**

Failure of Payment

9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Faulty Work

(See Defective or Nonconforming Work)

Final Completion and Final Payment

4.2.1, 4.2.9, 9.8.2, **9.10**, 12.3, 14.2.4, 14.4.3

Financial Arrangements, Owner's

2.2.1, 13.2.2, 14.1.1.4

GENERAL PROVISIONS

1

Governing Law

13.1

Guarantees (See Warranty)

Hazardous Materials and Substances

10.2.4, **10.3**

Identification of Subcontractors and Suppliers

5.2.1

Indemnification

3.17, **3.18**, 9.6.8, 9.10.2, 10.3.3, 11.3

Information and Services Required of the Owner

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5,

9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2,

14.1.1.4, 14.1.4, 15.1.4

Initial Decision

15.2

Initial Decision Maker, Definition of

1.1.8

Initial Decision Maker, Decisions

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Initial Decision Maker, Extent of Authority

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Injury or Damage to Person or Property

10.2.8, 10.4

Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,

9.9.2, 9.10.1, 12.2.1, 13.4

Instructions to Bidders

1.1.1

Instructions to the Contractor

3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2

Instruments of Service, Definition of

1.1.7

Insurance

6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5, **11**

Insurance, Notice of Cancellation or Expiration

11.1.4, 11.2.3

Insurance, Contractor's Liability

11.1

Insurance, Effective Date of

8.2.2, 14.4.2

Insurance, Owner's Liability

11.2

Insurance, Property

10.2.5, 11.2, 11.4, 11.5

Insurance, Stored Materials

9.3.2

INSURANCE AND BONDS

11

Insurance Companies, Consent to Partial Occupancy

9.9.1

Insured loss, Adjustment and Settlement of

11.5

Intent of the Contract Documents

1.2.1, 4.2.7, 4.2.12, 4.2.13

Interest

13.5

Interpretation

1.1.8, 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1

Interpretations, Written

4.2.11, 4.2.12

Judgment on Final Award

15.4.2

Labor and Materials, Equipment

1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1,

10.2.4, 14.2.1.1, 14.2.1.2

Labor Disputes

8.3.1

Laws and Regulations

1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4,

9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8,

15.4

Liens

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Limitations, Statutes of

12.2.5, 15.1.2, 15.4.1.1

Limitations of Liability

3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6,

4.2.7, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3,

11.3, 12.2.5, 13.3.1

Limitations of Time

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,

5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,

9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15,

15.1.2, 15.1.3, 15.1.5

Materials, Hazardous

10.2.4, **10.3**

Materials, Labor, Equipment and

1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2,

10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2

Means, Methods, Techniques, Sequences and

Procedures of Construction

3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2

Mechanic's Lien

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Mediation

8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, **15.3**, 15.4.1,

15.4.1.1

Minor Changes in the Work

1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1, **7.4**

MISCELLANEOUS PROVISIONS

13

Modifications, Definition of

1.1.1

Modifications to the Contract

1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7, 10.3.2

Mutual Responsibility

6.2

Nonconforming Work, Acceptance of

9.6.6, 9.9.3, **12.3**

Nonconforming Work, Rejection and Correction of
2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4, 12.2

Notice

1.6, 1.6.1, 1.6.2, 2.1.2, 2.2.2., 2.2.3, 2.2.4, 2.5, 3.2.4, 3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4, 8.2.2, 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1, 13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5, 15.1.6, 15.4.1

Notice of Cancellation or Expiration of Insurance

11.1.4, 11.2.3

Notice of Claims

1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, **15.1.3**, 15.1.5, 15.1.6, 15.2.8, 15.3.2, 15.4.1

Notice of Testing and Inspections

13.4.1, 13.4.2

Observations, Contractor's

3.2, 3.7.4

Occupancy

2.3.1, 9.6.6, 9.8

Orders, Written

1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2, 14.3.1

OWNER

2

Owner, Definition of

2.1.1

Owner, Evidence of Financial Arrangements

2.2, 13.2.2, 14.1.1.4

Owner, Information and Services Required of the

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2, 14.1.1.4, 14.1.4, 15.1.4

Owner's Authority

1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1, 7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2, 10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4, 15.2.7

Owner's Insurance

11.2

Owner's Relationship with Subcontractors

1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2

Owner's Right to Carry Out the Work

2.5, 14.2.2

Owner's Right to Clean Up

6.3

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

6.1

Owner's Right to Stop the Work

2.4

Owner's Right to Suspend the Work

14.3

Owner's Right to Terminate the Contract

14.2, 14.4

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

1.1.1, 1.1.6, 1.1.7, **1.5**, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.12, 5.3

Partial Occupancy or Use

9.6.6, **9.9**

Patching, Cutting and

3.14, 6.2.5

Patents

3.17

Payment, Applications for

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1, 14.2.3, 14.2.4, 14.4.3

Payment, Certificates for

4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4

Payment, Failure of

9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Payment, Final

4.2.1, 4.2.9, **9.10**, 12.3, 14.2.4, 14.4.3

Payment Bond, Performance Bond and

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Payments, Progress

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

PAYMENTS AND COMPLETION

9

Payments to Subcontractors

5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2

PCB

10.3.1

Performance Bond and Payment Bond

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Permits, Fees, Notices and Compliance with Laws

2.3.1, **3.7**, 3.13, 7.3.4.4, 10.2.2

PERSONS AND PROPERTY, PROTECTION OF
10

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of

3.12.2

Product Data and Samples, Shop Drawings

3.11, **3.12**, 4.2.7

Progress and Completion

4.2.2, **8.2**, 9.8, 9.9.1, 14.1.4, 15.1.4

Progress Payments

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

Project, Definition of
1.1.4
Project Representatives
4.2.10
Property Insurance
10.2.5, 11.2
Proposal Requirements
1.1.1
PROTECTION OF PERSONS AND PROPERTY
10
Regulations and Laws
1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1,
10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8, 15.4
Rejection of Work
4.2.6, 12.2.1
Releases and Waivers of Liens
9.3.1, 9.10.2
Representations
3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1
Representatives
2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1
Responsibility for Those Performing the Work
3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10
Retainage
9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3
Review of Contract Documents and Field
Conditions by Contractor
3.2, 3.12.7, 6.1.3
Review of Contractor's Submittals by Owner and
Architect
3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2
Review of Shop Drawings, Product Data and Samples
by Contractor
3.12
Rights and Remedies
1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1,
6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2,
12.2.4, 13.3, 14, 15.4
Royalties, Patents and Copyrights
3.17
Rules and Notices for Arbitration
15.4.1
Safety of Persons and Property
10.2, 10.4
Safety Precautions and Programs
3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4
Samples, Definition of
3.12.3
Samples, Shop Drawings, Product Data and
3.11, 3.12, 4.2.7
Samples at the Site, Documents and
3.11
Schedule of Values
9.2, 9.3.1
Schedules, Construction
3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Separate Contracts and Contractors
1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2
Separate Contractors, Definition of
6.1.1
Shop Drawings, Definition of
3.12.1
Shop Drawings, Product Data and Samples
3.11, 3.12, 4.2.7
Site, Use of
3.13, 6.1.1, 6.2.1
Site Inspections
3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4
Site Visits, Architect's
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4
Special Inspections and Testing
4.2.6, 12.2.1, 13.4
Specifications, Definition of
1.1.6
Specifications
1.1.1, 1.1.6, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14
Statute of Limitations
15.1.2, 15.4.1.1
Stopping the Work
2.2.2, 2.4, 9.7, 10.3, 14.1
Stored Materials
6.2.1, 9.3.2, 10.2.1.2, 10.2.4
Subcontractor, Definition of
5.1.1
SUBCONTRACTORS
5
Subcontractors, Work by
1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2,
9.6.7
Subcontractual Relations
5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1
Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3, 9.8,
9.9.1, 9.10.2, 9.10.3
Submittal Schedule
3.10.2, 3.12.5, 4.2.7
Subrogation, Waivers of
6.1.1, 11.3
Substances, Hazardous
10.3
Substantial Completion
4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2,
15.1.2
Substantial Completion, Definition of
9.8.1
Substitution of Subcontractors
5.2.3, 5.2.4
Substitution of Architect
2.3.3
Substitutions of Materials
3.4.2, 3.5, 7.3.8
Sub-subcontractor, Definition of
5.1.2

Subsurface Conditions

3.7.4

Successors and Assigns

13.2

Superintendent

3.9, 10.2.6

Supervision and Construction Procedures

1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4

Suppliers

1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6, 9.10.5, 14.2.1

Surety

5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2, 15.2.7

Surety, Consent of

9.8.5, 9.10.2, 9.10.3

Surveys

1.1.7, 2.3.4

Suspension by the Owner for Convenience

14.3

Suspension of the Work

3.7.5, 5.4.2, 14.3

Suspension or Termination of the Contract

5.4.1.1, 14

Taxes

3.6, 3.8.2.1, 7.3.4.4

Termination by the Contractor

14.1, 15.1.7

Termination by the Owner for Cause

5.4.1.1, 14.2, 15.1.7

Termination by the Owner for Convenience

14.4

Termination of the Architect

2.3.3

Termination of the Contractor Employment

14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14

Tests and Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 12.2.1, 13.4

TIME

8

Time, Delays and Extensions of

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5

Time Limits

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15.1.2, 15.1.3, 15.4

Time Limits on Claims

3.7.4, 10.2.8, 15.1.2, 15.1.3

Title to Work

9.3.2, 9.3.3

UNCOVERING AND CORRECTION OF WORK

12

Uncovering of Work

12.1

Unforeseen Conditions, Concealed or Unknown

3.7.4, 8.3.1, 10.3

Unit Prices

7.3.3.2, 9.1.2

Use of Documents

1.1.1, 1.5, 2.3.6, 3.12.6, 5.3

Use of Site

3.13, 6.1.1, 6.2.1

Values, Schedule of

9.2, 9.3.1

Waiver of Claims by the Architect

13.3.2

Waiver of Claims by the Contractor

9.10.5, 13.3.2, 15.1.7

Waiver of Claims by the Owner

9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, 15.1.7

Waiver of Consequential Damages

14.2.4, 15.1.7

Waiver of Liens

9.3, 9.10.2, 9.10.4

Waivers of Subrogation

6.1.1, 11.3

Warranty

3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2, 15.1.2

Weather Delays

8.3, 15.1.6.2

Work, Definition of

1.1.3

Written Consent

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3, 13.2, 13.3.2, 15.4.4.2

Written Interpretations

4.2.11, 4.2.12

Written Orders

1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.3.1 The Contractor shall undertake and complete the Work as an independent Contractor and not as an agent of the Owner. Contractor shall faithfully and diligently perform and complete the Work and its obligations under this Contract in compliance with and subject to each of the provisions of the Contract to the fullest extent that such provisions are applicable to the Work. Any Work performed by the Contractor that is not part of the Work as described in the Contract Documents will be at the sole risk and expense of the Contractor, unless such additional Work is approved in writing through a Change Order.

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials. Instruments of Service are created at the direction of the Owner and for the benefit of the Owner, therefore the Owner shall have complete ownership and control of the Instruments of Service once the Architect has been compensated in whole or in part for the Instruments of Service.

§ 1.1.8 Initial Decision Maker

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

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results given the Contractor's extensive experience and expertise with construction projects of similar type and size. In the event that a conflict or ambiguity exists within the Contract Documents, the Contractor shall resolve said ambiguity to include the highest quality and largest quantity.

§ 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. Terms in the A201-2017 shall have the same meaning as those in the A133-2019 and other Contract Documents.

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights until such time as the Architect is compensated for their services in whole or in part, at which time the Instruments of Services shall become the property of the Owner. 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 shall not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

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

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

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

ARTICLE 2 OWNER

§ 2.1 General

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

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

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately. Contractor shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Contract Contractor shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Contractor to assume obligations or responsibilities greater than those existing obligations Contractor has under the Contract Documents.

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

Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

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

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

§ 2.3 Information and Services Required of the Owner

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

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

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

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work and Other Remedies

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

amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15. The Contractor shall be liable for all impacts related to delays resulting from a stop work order issued by the Owner based on the Contractor's failure to perform under this paragraph. The exercise of Owner's right to stop Work pursuant to this Section 2.3 shall not result in any extensions to the Contract Time.

§ 2.5.1 Each of the following shall constitute a default or an event of default by the Contractor:

- .1 The Contractor fails or refuses to comply with or perform, in whole or in part, any terms or conditions of the Agreement or the Contract Documents.
- .2 The Contractor fails to pay or cause to be paid (as applicable) any of its Subcontractors, supervisory staff or work force or any materials, labor, equipment or other expenses incurred in the performance of the Work, when such payments are due in accordance with the agreements requiring such payment and all applicable laws.
- .3 The Contractor becomes insolvent, makes an assignment for the benefit of creditors, or commences any proceeding in bankruptcy, or any such proceedings are commenced against it and are not discharged within thirty days,
- .4 The Contractor abandons the Work, or reduces its management, supervisory staff or work force to a level that may not allow the Contractor to maintain the accurate progress of the services or the Work for the timely completion of the Project as determined by the Owner (including services during pre-construction as well as during construction), and including Work being performed prior to Substantial Completion as well as following Substantial Completion, until all Punch List items are complete and the Project achieves Final Completion.
- .5 Contractor is otherwise in material breach of the terms of the Contract Documents.

§ 2.5.2 If the Contractor is in default or an event of default exists the Owner may elect to:

- .1 Direct the Contractor to comply with the terms of the Contract Agreement and/or Contract Documents.
- .2 Direct the Contractor to remove any defective or hazardous material or work, which Contractor shall do at its sole cost.
- .3 Accept any non-conforming work or materials, in which event Owner shall be entitled to a reduction in the Final Guaranteed Maximum Price for the reduced value thereof.
- .4 Immediately complete portions of or all of the Work in accordance with the Contract Documents.
- .5 Make payments directly to Subcontractors to satisfy the Contractor's obligations relating to the Work in accordance with Section 9.3.1.2.
- .6 Withhold payments to Contractor or to any Subcontractor until the cause for the default or the event of default is cured to the satisfaction of the Owner, or in conformance with the Contract Documents.
- .7 Subject to the notice and cure period provided in Section 14.2, terminate the Contract pursuant to Section 14.2 and finish the Work by whatever method Owner deems expedient.
- .8 Have any other remedy to which Owner may be entitled under the Contract Documents, at law or in equity.

§ 2.5.3 The Owner's choice of a remedy shall not obligate the Owner to waive any other rights or remedies provided under the Contract Documents, or by law, against Contractor or its surety. Owner, at its option, may choose more than one remedy or choose one or more particular remedies at different times, without prejudice to any other remedies, and Owner may exercise any remedies in any sequence or combination.

§ 2.5.4 Contractor shall pay, immediately upon demand, all costs, losses, damages and expenses, including, without limitation, all costs and expenses incurred by Owner in Section 2.5.2 above, and all administrative, management, and overhead and other expenses and loss, including reasonable attorney's fees and expenses (herein sometimes collectively called "Costs"), incurred by the Owner in connection with any default by Contractor or exercise of any right or remedy upon Contractor's default. If Contractor does not pay the Costs immediately, the Owner may deduct all Costs from any unpaid portion of the Contract Sum and the Final Guaranteed Maximum Price. The liability of Contractor shall extend to include, without limitation, the full amount of Costs incurred and obligations assumed in good faith under the reasonable belief that such Costs or obligations were necessary or required whether or not they were in fact necessary or required. An itemized statement of such obligations and payment shall be prima-facie evidence of Contractor's liability.

Init.

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, 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 representative shall be an officer or principal of the firm. The term "Contractor" means the Contractor or the Contractor's authorized representative. Owner, Architect, Owner's Representative and Owner's Representative Firm shall be entitled to rely on the authority of the Contractor's representative at all times without inquiry.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents. Time is of the essence of Contractor's obligations under the Contract.

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed including but not limited to climatic, geographical and topographic conditions, and correlated personal observations with requirements of the Contract Documents. The Contractor has assessed and is satisfied with the qualifications, suitability and availability of potential Subcontractors and labor, material and equipment suitability and availability to satisfy the requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, in developing the Final Guaranteed Maximum Price, and before starting each portion of the Work, carefully study and compare the various Contract Documents relative to the entire Project, and each 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. The Contractor shall conduct detailed reviews with Subcontractors, in an effort to continue to uncover any errors, omissions or inconsistencies. The Contractor and their Subcontractors 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. The Contractor shall notify the Owner in writing immediately and in any event within three (3) business days after discovering any discrepancies between the information provided by the Owner and the actual conditions on the site. 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. For any portion of the Work which includes an addition or renovation to an existing facility, Contractor shall be responsible to verify patent existing conditions and to verify measurements and dimensions at the Project site prior to preparing the Final Guaranteed Maximum Price, prior to ordering materials and prior to performing the Work. Contractor shall verify existing conditions for changes in the Work as soon as practicable after receiving such changes. No increase in the Contract Sum or Contract Time will be allowed based on differences between patent existing conditions and conditions reflected on the Contract Documents.

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

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of

Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.3.4 The Contractor shall not assign a proposed project manager(s) to whom the Owner has made reasonable and timely objection. The Contractor shall not change the project manager without the Owner's prior written consent, unless the project manager is no longer employed by the Contractor. Contractor shall provide resumes of multiple replacement project manager and the Owner reserves the right to interview and accept any proposed changes in project manager(s).

§ 3.4 Labor and Materials

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

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

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. The Contractor shall remove, at the Owner's request, any of 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 from the Project that are unacceptable to the Owner.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations

to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.5.3 Manufacturer's warranties and subcontractor's warranties shall not relieve the Contractor of any of its warranty obligations under the Contract Documents.

§ 3.5.4 The Warranty shall be for the duration of time stipulated within the Contract Documents. In the event that a specific duration is not identified in the Contract Documents the warranty period shall be two years from Owner occupancy or substantial completion, whichever occurs first. If there is a conflict within the Contract Documents for the warranty period, the longest duration of time stated shall govern. As Work required on warranty is the complete, rework, repair or replacement of Work not properly performed, or the result of defective material or workmanship, the Owner will not compensate the Contractor or Subcontractors and material and equipment suppliers for the warranty Work.

§ 3.5.5 All warranty items are the responsibility of the Contractor. When warranty items occur, the Owner will notify the Contractor or appropriate Subcontractor. The Contractor shall cause Work to commence on any warranty items within seven (7) days. If the warranty item(s) are impacting safety or rendering the Project or a portion of the Project unfit for its intended use, the Contractor shall take any and all measures to resolve the warranty item(s) immediately. This shall include the acceleration of labor, material and equipment, all to implement the resolution, regardless of cost. All costs associated with the resolution of the warranty issue(s) shall remain the responsibility of the Contractor.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. Contractor shall pay unemployment and social security taxes or other taxes imposed by local, city, state or federal government and upon request, shall certify to Owner that prior taxes due were paid before payment is made to Contractor. Contractor represents that the cost of payment of all the aforesaid taxes has been included in its preliminary estimates, the Initial Guaranteed Maximum Price and shall be included in the Final Guaranteed Maximum Price. The Contractor's obligation for taxes extends beyond the final close-out of the Project and continues for the applicable limitations period.

§ 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 seven (7) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum

or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection. Allowances shall be clearly tracked in a separate report and updated on a monthly basis to Owner and Architect.

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

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness. The Contractor shall separately track, on no less than a monthly basis, all materials and equipment provided under allowances including, but not limited to, (i) a description of the allowance; (ii) amounts actually spent for each allowance; and (iii) variances between allowance amounts in the Contract Sum and amounts actually spent.

§ 3.9 Superintendent

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

§ 3.9.2 The Contractor, shall deliver the full-time, on-site superintendent approved by the Owner through the selection process.

§ 3.9.3 The Contractor shall not assign a proposed superintendent to whom the Owner 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 unless the superintendent is no longer employed by the Contractor. Contractor shall provide resumes of multiple replacement superintendents and the Owner reserves the right to interview and accept any proposed changes in superintendents.

§ 3.9.4 During the course of the Project, if in the Owner's opinion any individuals become unfit to continue on the Project or the Owner feels that it is in the best interest of the Project that an individual needs to be removed, the Owner may direct the Contractor to remove such individual from the Project and Contractor shall promptly do so. If the Contractor replaces any key staff member of their team for any reason, the Owner must be provided with a detailed resume in advance and then an opportunity to meet with and approve the proposed replacement staff member prior to assignment to the Project. No such approval shall in any way relieve the Contractor of responsibility for the performance of its employees, contractors and agents in connection with the Project

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Owner's approval, a Contractor's construction schedule for the Work in a critical path method format, the "Construction Schedule". The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The approved Construction Schedule shall be incorporated into the Final Guaranteed Maximum Price proposal and must show a reasonable critical path in adequate detail to track the detail of every critical and major element of the Project. The Construction Schedule must incorporate the logic for the preparation, submittal and approval of shop drawings and submittals in a timely manner that allows adequate review, fabrication and delivery to the site. The Construction Schedule must also incorporate the sequencing and interrelationship between each of the trades. Under no circumstance shall the Contract Time be adjusted without an executed Change Order.

§ 3.10.1.1 The Construction Schedule shall be revised by the Contractor at least monthly or when directed to do so more frequently by the Owner. All revised Construction Schedules must demonstrate updates and or changes from the previously approved Construction Schedule. In the event that the Contractor ever presents a schedule that does not provide for Substantial Completion to be achieved by the Contract Time, the Contractor shall also present a recovery plan that will allow the Contractor to achieve Substantial Completion by the Contract Time. The Owner will determine if the recovery plan or the revised schedule shall be accepted. If the Owner elects to accept the revised schedule in writing, it shall become the approved Construction Schedule that the Owner will rely upon to make commitments and obligations. Receiving revised schedules at the weekly Owner/Architect/Contractor (O/A/C) meeting or in another format shall not be construed as an acceptance by the Owner. Any revision to the approved Construction Schedule requires the Owner's written approval.

§ 3.10.1.2 The Contractor shall also prepare a three (3) week look ahead schedule each week for review at the O/A/C meetings, focusing on the in-depth detail of the upcoming weeks activities in a manner that reflects the planned day-to-day activities in the field. The detail shall be adequate to allow tracking of daily progress through field observation walks and reports.

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

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent Owner approved Construction Schedule.

§ 3.10.4 The Contractor shall include within the Construction Schedule a specific number of weather delay days per year for the duration of the Project. Contractor shall state its assumptions used to determine the number of weather delay days.

§ 3.11 Documents and Samples at the Site

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

§ 3.11.1 The Contractor shall keep detailed daily logs and submit these logs to the Architect and Owner each week at the O/A/C meetings. The detailed written daily logs shall include a description of the Work performed the previous week. Each such daily report shall be prepared and signed by the project manager or superintendent, on behalf of the Contractor. Each report shall at a minimum include the following information for that day concerning the Contractor and each Subcontractor (including each Sub-subcontractor): materials and equipment being installed, number of individuals working, the hours worked, the type and location of the work being performed by each trade and each item of major equipment being used. The report shall also include other information such as temperature and weather recorded during the work period and any significant events occurring on the job site with regard to the Work or the Project.

§ 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. Shop Drawings are not to be treated as an administrative pass through to the Architect. The Contractor is required to complete its own detailed review for conformance of the Shop Drawings and other submittals with the Contract Documents with competent and qualified staff prior to forwarding on to the Architect.

§ 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 unless the Contractor makes a specific written request of the Architect to review a submittal about which the Contractor has reasonable questions or concerns.

§ 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. Submissions which in the Architect's opinion are incomplete, contain numerous errors, or have not been adequately checked by the Contractor may be returned by the Architect for proper review and re-submittal. In the event that the Architect and Contractor are in dispute over the quality of any submittal, the Owner shall be the decision maker regarding the issue.

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

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's review or 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.

Init.

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

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

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

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

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. Contractor acknowledges that there may be unique site considerations applicable to the development and construction of the Project including, without limitation, (i) the necessity to perform the work in areas adjacent to existing services and buildings; (ii) limited availability of space within the project site for on-site storage of materials, parking, and for other than essential construction operations; and (iii) the need for careful scheduling of construction services to minimize to the greatest extent possible or eliminate any disruption to the surrounding facilities.

§ 3.14 Cutting and Patching

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

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

§ 3.15 Cleaning Up

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

the Project on a daily basis. The Owner may direct the Contractor to provide immediate clean-up of the site and the Contractor shall comply at no additional cost to the Owner.

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

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

§ 3.18 Indemnification

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

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

ARTICLE 4 ARCHITECT

§ 4.1 General

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

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

§ 4.2 Administration of the Contract

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

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

Init.

for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

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

§ 4.2.4 Communications

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

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment and the progress and quality of the Work, the Architect will review and, after consultation with the Owner, certify the amounts due the Contractor and will issue Certificates for Payment in such amounts. The Contractor's Application for Payment must be supported by the Contractor's affidavit and all lien waivers relating thereto in accordance with the Contract Documents. Notwithstanding anything to the contrary in any other Contract Documents, the Architect shall not have authority, by making its certification, to bind Owner to pay Contractor any amount.

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

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

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

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

assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

§ 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. The terms "Subcontractor" or "Sub-subcontractor" may also include all material and equipment suppliers retained, as applicable.

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

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

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

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

Init.

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

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. No agreements entered into between the Contractor and Subcontractor shall relieve the Contractor of its responsibilities to the Owner under the Contract Documents. Each subcontract agreement and purchase order shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

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

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

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights (to the extent they relate to Work satisfactorily performed but not paid by Owner) and obligations under the subcontract.

§ 5.4.1.1 To the extent that the Owner elects to accept assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall execute and deliver all such papers and take all such steps, including the assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All contracts between Contractor and Subcontractors (including without limitation purchase orders, other contracts for purchase of materials and rental agreements) entered into by the Contractor shall contain provisions allowing for assignment to the Owner as described above and further assignment by Owner.

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. Contractor agrees to allow access to the Project site and all areas of the Work as may be reasonably necessary for the performance of work by others, including, without limitation, storage of materials and equipment,

use of vertical transportation and connection to utilities and services. Such parties shall abide by all safety program requirements of Contractor.

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

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

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

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.1.4.

§ 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 Owner will make a good faith allocation of the cost among those the Owner believes are responsible, which allocation will be binding on Contractor and Owner's separate contractors, and Contractor shall promptly pay to Owner its share of the costs as so determined.

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. Changes in the Work may be made

Init.

without notice to the Contractor's surety and absence of such notice shall not relieve such sureties of any obligations to the Owner. Notice of changes in the Work to surety companies is the responsibility of the Contractor.

§ 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.

§ 7.1.2.1 A field directive or field order shall not be recognized as having any impact upon the Contract Sum or the Contract Time and Contractor shall have no claim therefore unless Contractor notifies Architect and Owner in writing, prior to complying with same and in no event later than ten (10) business days from the date such direction or order was given, that Contractor intends to submit a change proposal relating thereto. Following such notice to Architect and Owner, Contractor shall prepare and submit to the Architect and Owner for Owner's approval its change proposal within ten (10) business days following the issuance of the field directive or field order, taking into account the nature and extent of the change to the Work required thereby.

§ 7.1.2.2 When submitting its change proposal, Contractor shall include and set forth, in clear and precise detail, breakdowns of labor, materials and all mark-ups for all trades involved and the estimated impact on the Construction Schedule. Contractor shall furnish spreadsheets from which the breakdowns were prepared, plus spreadsheets if requested of any Subcontractors and detailed breakdown from Subcontractors.

§ 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 Contractor 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.

The Contractor and Architect acknowledge and agree that the Contract Sum and Contract Time cannot be adjusted without a properly executed Change Order.

Pursuant to C.R.S. 24-91-103.6(2)(b), no change order, as defined in C.R.S. 24-101-301(2), or other form of order or directive shall be issued by Owner requiring additional compensable Work to be performed, which work causes the aggregate amount payable under the Contract to exceed the amount appropriated for the original Contract, unless Contractor is given written assurance by Owner that lawful appropriations to cover the costs of the additional work have been made and the appropriations are available prior to performance of the additional work or unless such work is covered under a remedy-granting provision in the Contract.

Pursuant to C.R.S. 24-91-103.6(2)(c), if Owner issues any form of order or directive requiring additional compensable work to be performed, Owner shall reimburse the Contractor for its costs, as part of its monthly Applications for Payment, for all additional directed Work performed until a Change Order is finalized. In no instance shall such reimbursements be required before the Contractor has submitted an estimate of cost to Owner for the additional compensable work to be performed.

§ 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 or not-to-exceed amount properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

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

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

§ 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 Owner and Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

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

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

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

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

Init.

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. Commencement of the Work is not a Notice-to-Proceed with construction.

§ 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. The term "Business Day" shall mean a calendar day, exclusive of weekends and federal legal holidays.

§ 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, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

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

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, occurrences beyond the reasonable control and without fault or negligence of Contractor, documented unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented as over and above those included in the Construction Schedule in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Owner determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Owner and Contractor agree, but only if such delay actually impacts the critical path of the Work and Substantial Completion of the Project.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15 and administered as stated below:

§ 8.3.2.1 Notification. Within three (3) Business Days after the discovery of or the commencement of a disruption in the Work, Contractor must notify the Architect and the Owner in writing of the effect, and must state specifically the condition that is causing or may cause delay or disruption and must set forth therein suggestions for avoiding such delay or disruption.

§ 8.3.2.2 Request. A formal request for an extension of time must be submitted within ten (10) business days of the time of occurrence or when Contractor became aware of a condition or event, giving rise to the delay and must provide the basis for the extension of time, identifying the causes of delay and describing the nature and expected duration of the delay and its effect on the completion of the Work.

§ 8.3.2.3 Approval. An extension of time shall be granted if and only if (a) the cause of the delay arises after the issuance of Notice to Proceed and neither was, nor could have been reasonably anticipated by Contractor before such issuance; (b) Contractor demonstrates by the use of a progress schedule that the completion of the Project will actually and necessarily be delayed; (c) the effect of the delay cannot be avoided or mitigated by the Contractor's exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the delay; (d) the Contractor makes the written request to the Architect and Owner on account of the delay for an extension of time in accordance with this Contract.

§ 8.3.2.4 Compensation. If Contractor shall at any time claim or intend to claim compensation for any damage sustained by reason of any such delay or disruption, Contractor shall (in addition to providing notice under section 8.3.2.1 above on or before the fifteenth (15th) day of the month following that in which any such damage shall have been sustained, provide the Architect and the Owner with an itemized written statement, duly executed by the Contractor, setting forth in detail the nature, extent and amount of such damage and having attached thereto copies of all documentation then in the possession of the Contractor or obtainable to support such claim.

§ 8.3.2.5 Avoidance. Notwithstanding any other provision of the Contract to the contrary or any applicable law, since the purpose of each of the foregoing requirements is to provide the Owner with the opportunity to avoid or minimize the effect of any such condition, the failure by the Contractor to strictly comply with the requirements set forth in sections 8.3.2.1, 8.3.2.2, 8.3.2.3 or 8.3.2.4 above shall constitute a waiver and release by the Contractor of any and all claims for damages for delay or disruption arising from any such conditions.

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

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

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

§ 9.3 Applications for Payment

§ 9.3.1 Contractor shall review a draft Application for Payment with the Architect and Owner approximately five (5) days before the end of each calendar month during the Construction Phase and shall submit a final Application for Payment in accordance with approved Schedule of Values, as required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 When agreed to by the Owner and Contractor, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, but not yet included in Change Orders.

Init.

§ 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. All Subcontractor and material or equipment suppliers must be paid within ten (10) days of receipt of payment by the Contractor for the stated work included within the monthly Applications for Payment. The Contractor shall require each Subcontractor to make payments to Sub-subcontractors, vendors and suppliers in a similar manner. If the Contractor or Subcontractor intends to withhold payments to a subcontractor or material or equipment supplier for any reason, those funds shall not be included within an Application for Payment to the Owner and Architect. Owner and Architect have the right to request and Contractor shall then also provide written evidence from the Contractor that the Contractor has properly paid Subcontractors, Sub-subcontractors, vendors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within ten (10) days, the Owner shall have the right to contact Subcontractors and Sub-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. Owner's inquiry of payment to Subcontractors, vendors and suppliers in no way relieves Contractor of its responsibility to ensure payment.

§ 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 Project materials and equipment suitably stored off the site at a licensed and bonded warehouse or 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. For materials and equipment stored off-site, the Contractor shall provide Owner a certificate of property insurance for the stored materials and/or equipment with the Owner listed as an additional insured and loss payee, an itemized list of the stored materials and/or equipment, a bill of sale for the stored materials and/or equipment in the exact dollar value for the product and a site visit to the storage location to verify materials and/or equipment are in storage at the agreed location to be coordinated by the Contractor, all satisfactory to the Owner in its discretion.

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

§ 9.3.4 Before the Contractor shall become entitled to any progress or final payments under the terms of this Contract, the Contractor must first submit waivers of liens, on a form approved by the Owner. The required waivers of liens are required from the Contractor and all Subcontractors and Sub-subcontractors with each application for payment in the following manner;

- .1 Partial Conditional waivers of liens are required from the Contractor and all Subcontractors and material suppliers for whom the Contractor is requesting disbursement within the current Application for Payment.
- .2 Partial Unconditional waivers of liens are required from the Contractor and all Subcontractors and material suppliers for which Contractor previously received payment.
- .3 Final Conditional waivers of liens are required from the Contractor and all Subcontractors and material suppliers for whom the Contractor is requesting disbursement within the current Application for Payment.
- .4 Final Unconditional waivers of liens are required from the Contractor and all Subcontractors and material suppliers for which Contractor previously received final payments. Final Unconditional waivers of liens are due within fourteen (14) days of receipt of final payment to the Contractor or Subcontractors or material suppliers. Failure to comply shall constitute a default by Contractor.

§ 9.3.5 Failure to provide the proper waivers of liens as described in Section 9.3.4 shall result in payments or partial payment being withheld until such waivers have been properly provided to the Owner.

§ 9.3.6 The Contractor shall include in every Subcontractor and major supplier agreement the requirements of waivers of liens prior to award of a subcontract or purchase order.

§ 9.3.7 Contractor must provide a monthly report to the Owner notifying Owner of any lien waivers that have not been provided.

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

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner or 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 Owner or Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Owner or Architect is unable to certify payment in the amount of the Application, the Owner or Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Owner or 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 to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

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

§ 9.5.2 Owner shall make payment for the amounts which are approved in the Certificate for Payment within thirty (30) days after issuance, review and approval of the Certificate for Payment. When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

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

Init.

§ 9.5.4 If the Owner or 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 of the amounts not in dispute 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. Contractor will pay Subcontractors, in accordance with its contractual obligations to such parties and in accordance with Colorado law, including without limitation C.R.S. 24-91-103(2), all the amounts Contractor has received from Owner on account of their work. Contractor will impose similar requirements on Subcontractors to pay those parties with whom they have contracted. Contractor will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 9.6.8 hereof.

§ 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 Contractor shall provide Conditional and Unconditional lien waivers from subcontractors and material and equipment suppliers per the Contract Documents as evidence 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 the next Application for Payment, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

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

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

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents and paid all undisputed amounts, 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, and shall pay or reimburse to Owner all reasonable costs and expenses that Owner incurs in discharging any such lien claim or other claim. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. Contractor shall, within thirty (30) days after notice from Owner, either furnish Owner a bond sufficient to discharge the lien claim or other claim or deposit in an escrow, a sum sufficient to discharge the lien claim or other claim. Such bond or cash escrow shall remain in place until the lien claim or other claim is removed from the property. Owner shall have the right to withhold from payments due or become due to Contractor an amount equal to one hundred and fifty percent (150%) of the amount of the lien claim or other claim

until the same is released. 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 approved Application for Payment, or if the Owner does not pay the Contractor within fourteen (14) days after the date established in the Contract Documents, the amount certified by the Architect and approved by the Owner or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use, subject only to completion of minor Punchlist Items, the absence of completion of which does not interfere with the Owner's intended use and operation of the Project.

§ 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 ("Contractor's Punch List"). 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 Punch List, the Architect will, and Owner may 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 Punch 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 Punch 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 to a value of up to three hundred percent (300%) for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a written notice to the Owner, with a copy to the Contractor 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 is due and payable. If the Owner agrees and approves, the Owner will direct the Architect to issue the final Certificate for Payment. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied and that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety or sureties, 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 including Conditional Final Lien Waivers followed by Unconditional Final Lien Waivers within fourteen (14) days after payment and Owner lien waivers and releases, in form satisfactory to Owner, from all persons, firms, and entities who have performed work or supplied materials or equipment for or in connection with the Work and an affidavit from Contractor that such waivers and releases cover all the labor, materials, and equipment for which Contractor is directly or indirectly responsible or for which any lien or claim could be filed, to the extent and in such form as may be designated by the Owner, (7) proof of final inspection and approval of the work by governmental and other authorities having jurisdiction over the Work, and Owner's receipt of all requisite certificates of occupancy, permits and approvals for which Contractor is responsible under the Contract Documents, (8) all operating manuals, warranties and other deliverables required by the Contract Documents; and (9) a certificate executed by Contractor stating that all other terms of the Contract Documents have been satisfied. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from
.1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;

- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

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

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

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

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

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

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

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect. The responsible member shall be the Contractor's Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Contractor's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Construction Manager's personnel, Subcontractors and others as applicable.

Init.

Contractor's responsibility for safety under this Section 10.2 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

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

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given verbally to the other party within 24 hours of occurrence, and written notice provided within a reasonable time not exceeding two (2) days after discovery. The written notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition immediately, and provide appropriate notice in writing not more than 24 hours after recognition of the condition to both the Owner and the Architect.

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

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

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

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

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

§ 10.4 Emergencies

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

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

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

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located. The cost of individual subcontractor bonds shall be reimbursable as a direct Cost of the Work, if required. The Contractor shall make recommendations to the Owner regarding individual subcontractor bonds at the time of subcontract award authorization.

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

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

§ 11.2 Owner's Insurance

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

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does

not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

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

§ 11.3 Waivers of Subrogation

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

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

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

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

§11.5 Adjustment and Settlement of Insured Loss

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

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that

purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without reimbursement 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 with the prior approval of the Owner. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense and without reimbursement.

§ 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 and without reimbursement.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within two years 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 within fourteen (14) days 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 two-year or extended 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 two-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

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

§ 12.2.4 The Contractor shall bear the cost, without reimbursement, 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

Init.

Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

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

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

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

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

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

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

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

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

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate of six percent (6%) per annum.

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 thirty (30) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

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

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

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work executed up to the date of termination.

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

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

§ 14.2.2

(Paragraphs deleted)

In the event of a default by Contractor that continues uncured for seven (7) days after Contractor is given notice thereof, Owner may, after consultation with the Architect, at Owner's option, exercised by written notice to

Init.

Contractor, terminate the Contract, take over the Work and take possession of the Project site and all tools, equipment, and supplies then being used in connection with the Work (including those owned by Contractor) and finish the Work by whatever method it deems expedient, including accepting the assignment to Owner of any or all of the subcontracts.

If Owner terminates the Contract pursuant to Section 14.2.1, Contractor shall not be entitled to receive any further payment, except that if when the Work is finally complete the total cost to Owner for the Work (including amounts paid to Contractor and amounts paid to complete the Work) is less than the Contract Sum, Owner will pay to Contractor the lesser of (i) the Cost of Work completed by Contractor and not previously paid for by Owner or (ii) the amount which brings Owner's total cost for the Project up to the Contract Sum. If Owner's expense of completing the Work exceeds the unpaid balance of the Contract Sum, Contractor shall promptly pay the difference to Owner on demand. The total cost to Owner for the Work shall include, without limitation, all of Owner's direct and indirect costs of completion, including without limitation fees due to Architect and Owner's Representative Firm for additional administration and consulting, plus ten percent of all Owner's costs incurred for the Work after the termination of the Contract for overhead and supervision. Upon the termination of this Contract pursuant to Section 14.2.1, Owners shall have no obligation to pay Contractor for any Work performed after such termination, and no obligation to make any further payments to the Contractor for Work performed before such termination, until the Project has been completed, accepted by the Owner, and the Owner has determined to the Owner's complete satisfaction that potential expenses, charges and claims relating to the performance of the Work have been satisfied. Any payments to Contractor shall in any event be reduced by amounts due to the Owner under the terms of the Contract Documents.

§ 14.2.3 The remedies provided to Owner pursuant to this Section 14.2 shall be in addition to all other remedies of any kind and nature which Owner may have, either at law or in equity, for any breach hereof or failure to perform by Contractor, including without limitation, the liquidated damages provided in the Agreement. All remedies of Owner shall be cumulative, and the exercise of one or more remedies by Owner hereunder shall not preclude the simultaneous exercise or subsequent exercise of other or additional remedies.

§ 14.2.4 In the event this Contract is terminated as provided herein, all obligations of Contractor relating to Work performed by Contractor prior to termination, including, without limitations, warranty and indemnification, shall survive such termination.

§ 14.2.5 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 payments which would otherwise be due and owing until the Work is finished.

§ 14.2.6 If the unpaid amount which would otherwise be due and owing to the Contractor 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 amount, 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.

§ 14.2.7 In the event that a Termination by the Owner for Cause should subsequently be determined to be wrongful, such termination for cause shall automatically be converted to a Termination by the Owner for Convenience and the provisions of Section 14.4. shall apply.

§ 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 may 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 Fee. No adjustment shall be made to the extent

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

§ 14.4 Termination by the Owner for Convenience

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

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for preconstruction or construction Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts.

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. Notice of Claims by either party under this Section 15.1.3.1 shall be initiated within seven (7) days after occurrence of the event giving rise to such Claim or within seven (7) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. In any event, a fully documented Claim for an adjustment in the Contract Sum or Claim for an adjustment in the Contract Time must be submitted no later than forty-five (45) days after the claimant first recognizes the condition giving rise to the Claim.

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

§ 15.1.4 Continuing Contract Performance

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

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

§ 15.1.5 Claims for Additional Cost

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

§ 15.1.6 Claims for Additional Time

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

§ 15.1.6.2 Weather delays which are normal and expected for the location of the Project and for the period of time are included within the Construction Schedule. 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.

(Paragraphs deleted)

§ 15.1.7 Consequential Damages

- .1 Notwithstanding anything herein to the Contrary (except as set forth in Section 15.1.7.2 below) neither Contractor nor Owner shall be liable to the other for any consequential losses or damages, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise, including but not limited to losses of use, profits, business, reputation, or financing;
- .2 The consequential damages limitation set forth in Section 15.1.7.1 above is not intended to affect the payment of liquidated damages set forth in Article 11 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner for damages that might otherwise be deemed to be consequential.

§ 15.2 Initial Decision

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

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

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

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

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

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

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

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

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

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, and 9.10.5, shall be subject to mediation as a condition precedent to binding dispute resolution. The parties agree to follow the protocol for mediation and dispute resolution outlined in Section 9 of the Agreement.

§ 15.3.2 Intentionally deleted.

§ 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

§ 15.4.1 Intentionally deleted.

§ 15.4.1.1 Intentionally deleted.

§ 15.4.2 Intentionally deleted.

§ 15.4.3 Intentionally deleted.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Intentionally deleted.

§ 15.4.4.2 Intentionally deleted.

§ 15.4.4.3 Intentionally deleted.

Additions and Deletions Report for AIA® Document A201® – 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 14:21:45 CT on 02/28/2022.

PAGE 1

Civic Center Master Plan Phase II
Northglenn, Colorado

...

City of Northglenn, State of Colorado
11701 Community Center Drive
Northglenn, Colorado 80233

...

Anderson Mason Dale Architects, P.C
3198 Speer Boulevard
Denver, CO 80211

PAGE 10

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 the performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

...

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

§ 1.1.3.1 The Contractor shall undertake and complete the Work as an independent Contractor and not as an agent of the Owner . Contractor shall faithfully and diligently perform and complete the Work and its obligations under this Contract in compliance with and subject to each of the provisions of the Contract to the fullest extent that such provisions are applicable to the Work. Any Work performed by the Contractor that is not part of the Work as described in the Contract Documents will be at the sole risk and expense of the Contractor, unless such additional Work is approved in writing through a Change Order.

...

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials. Instruments of Service are created at the direction of the Owner and for the benefit of the Owner, therefore the Owner shall have complete ownership and control of the Instruments of Service once the Architect has been compensated in whole or in part for the Instruments of Service.

PAGE 11

§ 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~~results given the Contractor's extensive experience and expertise with construction projects of similar type and size. In the event that a conflict or ambiguity exists within the Contract Documents, the Contractor shall resolve said ambiguity to include the highest quality and largest quantity.

§ 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. Terms in the A201-2017 shall have the same meaning as those in the A133-2019 and other Contract Documents.

...

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including ~~copyrights~~copyrights until such time as the Architect is compensated for their services in whole or in part, at which time the Instruments of Services shall become the property of the Owner. 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~~ shall not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

PAGE 12

§ 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. Contractor shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Contract Contractor shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Contractor to assume obligations or responsibilities greater than those existing obligations Contractor has under the Contract Documents.

PAGE 13

§ 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. I

...

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, or fails to correct non-conforming work within a reasonable time after receiving notice thereof, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work and Other Remedies

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ seven-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15. The Contractor shall be liable for all impacts related to delays resulting from a stop work order issued by the Owner based on the Contractor's failure to perform under this paragraph. The exercise of Owner's right to stop Work pursuant to this Section 2.3 shall not result in any extensions to the Contract Time.

§ 2.5.1 Each of the following shall constitute a default or an event of default by the Contractor:

- .1 The Contractor fails or refuses to comply with or perform, in whole or in part, any terms or conditions of the Agreement or the Contract Documents.
- .2 The Contractor fails to pay or cause to be paid (as applicable) any of its Subcontractors, supervisory staff or work force or any materials, labor, equipment or other expenses incurred in the performance of the Work, when such payments are due in accordance with the agreements requiring such payment and all applicable laws.
- .3 The Contractor becomes insolvent, makes an assignment for the benefit of creditors, or commences any proceeding in bankruptcy, or any such proceedings are commenced against it and are not discharged within thirty days.
- .4 The Contractor abandons the Work, or reduces its management, supervisory staff or work force to a level that may not allow the Contractor to maintain the accurate progress of the services or the Work for the timely completion of the Project as determined by the Owner (including services during pre-construction as well as during construction), and including Work being performed prior to Substantial Completion as well as following Substantial Completion, until all Punch List items are complete and the Project achieves Final Completion.
- .5 Contractor is otherwise in material breach of the terms of the Contract Documents.

§ 2.5.2 If the Contractor is in default or an event of default exists the Owner may elect to:

- .1 Direct the Contractor to comply with the terms of the Contract Agreement and/or Contract Documents.
- .2 Direct the Contractor to remove any defective or hazardous material or work, which Contractor shall do at its sole cost.
- .3 Accept any non-conforming work or materials, in which event Owner shall be entitled to a reduction in the Final Guaranteed Maximum Price for the reduced value thereof.
- .4 Immediately complete portions of or all of the Work in accordance with the Contract Documents.
- .5 Make payments directly to Subcontractors to satisfy the Contractor's obligations relating to the Work in accordance with Section 9.3.1.2.
- .6 Withhold payments to Contractor or to any Subcontractor until the cause for the default or the event of default is cured to the satisfaction of the Owner, or in conformance with the Contract Documents.
- .7 Subject to the notice and cure period provided in Section 14.2, terminate the Contract pursuant to Section 14.2 and finish the Work by whatever method Owner deems expedient.

.8 Have any other remedy to which Owner may be entitled under the Contract Documents, at law or in equity.

§ 2.5.3 The Owner's choice of a remedy shall not obligate the Owner to waive any other rights or remedies provided under the Contract Documents, or by law, against Contractor or its surety. Owner, at its option, may choose more than one remedy or choose one or more particular remedies at different times, without prejudice to any other remedies, and Owner may exercise any remedies in any sequence or combination.

§ 2.5.4 Contractor shall pay, immediately upon demand, all costs, losses, damages and expenses, including, without limitation, all costs and expenses incurred by Owner in Section 2.5.2 above, and all administrative, management, and overhead and other expenses and loss, including reasonable attorney's fees and expenses (herein sometimes collectively called "Costs"), incurred by the Owner in connection with any default by Contractor or exercise of any right or remedy upon Contractor's default. If Contractor does not pay the Costs immediately, the Owner may deduct all Costs from any unpaid portion of the Contract Sum and the Final Guaranteed Maximum Price. The liability of Contractor shall extend to include, without limitation, the full amount of Costs incurred and obligations assumed in good faith under the reasonable belief that such Costs or obligations were necessary or required whether or not they were in fact necessary or required. An itemized statement of such obligations and payment shall be prima-facie evidence of Contractor's liability.

PAGE 15

§ 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 representative shall be an officer or principal of the firm. The term "Contractor" means the Contractor or the Contractor's authorized representative. Owner, Architect, Owner's Representative and Owner's Representative Firm shall be entitled to rely on the authority of the Contractor's representative at all times without inquiry.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents. Time is of the essence of Contractor's obligations under the Contract.

...

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with performed including but not limited to climatic, geographical and topographic conditions, and correlated personal observations with requirements of the Contract Documents. The Contractor has assessed and is satisfied with the qualifications, suitability and availability of potential Subcontractors and labor, material and equipment suitability and availability to satisfy the requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, in developing the Final Guaranteed Maximum Price, and before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that the entire Project, and each 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. The Contractor shall conduct detailed reviews with Subcontractors, in an effort to continue to uncover any errors, omissions or inconsistencies. The Contractor and their Subcontractors 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. The Contractor shall notify the Owner in writing immediately and in any event within three (3) business days after discovering any discrepancies between the information provided by the Owner and the actual conditions on the site. 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. For any portion of the Work which includes an addition or renovation to an existing facility, Contractor shall be responsible to verify patent existing conditions and to verify measurements and dimensions at the Project site prior to preparing the Final

Guaranteed Maximum Price, prior to ordering materials and prior to performing the Work. Contractor shall verify existing conditions for changes in the Work as soon as practicable after receiving such changes. No increase in the Contract Sum or Contract Time will be allowed based on differences between patent existing conditions and conditions reflected on the Contract Documents.

PAGE 16

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

...

§ 3.3.4 The Contractor shall not assign a proposed project manager(s) to whom the Owner has made reasonable and timely objection. The Contractor shall not change the project manager without the Owner's prior written consent, unless the project manager is no longer employed by the Contractor. Contractor shall provide resumes of multiple replacement project manager and the Owner reserves the right to interview and accept any proposed changes in project manager(s).

...

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

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. The Contractor shall remove, at the Owner's request, any of 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 from the Project that are unacceptable to the Owner.

...

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements including substitutions not properly approved and authorized, 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.

PAGE 17

§ 3.5.3 Manufacturer's warranties and subcontractor's warranties shall not relieve the Contractor of any of its warranty obligations under the Contract Documents.

§ 3.5.4 The Warranty shall be for the duration of time stipulated within the Contract Documents. In the event that a specific duration is not identified in the Contract Documents the warranty period shall be two years from Owner occupancy or substantial completion, whichever occurs first. If there is a conflict within the Contract Documents for the warranty period, the longest duration of time stated shall govern. As Work required on warranty is the complete, rework, repair or replacement of Work not properly performed, or the result of defective material or workmanship, the Owner will not compensate the Contractor or Subcontractors and material and equipment suppliers for the warranty Work.

§ 3.5.5 All warranty items are the responsibility of the Contractor. When warranty items occur, the Owner will notify the Contractor or appropriate Subcontractor. The Contractor shall cause Work to commence on any warranty items within seven (7) days. If the warranty item(s) are impacting safety or rendering the Project or a portion of the Project unfit for its intended use, the Contractor shall take any and all measures to resolve the warranty item(s) immediately. This shall include the acceleration of labor, material and equipment, all to implement the resolution, regardless of cost. All costs associated with the resolution of the warranty issue(s) shall remain the responsibility of the Contractor.

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. Contractor shall pay unemployment and social security taxes or other taxes imposed by local, city, state or federal government and upon request, shall certify to Owner that prior taxes due were paid before payment is made to Contractor. Contractor represents that the cost of payment of all the aforesaid taxes has been included in its preliminary estimates, the Initial Guaranteed Maximum Price and shall be included in the Final Guaranteed Maximum Price. The Contractor's obligation for taxes extends beyond the final close-out of the Project and continues for the applicable limitations period.

...

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~~ seven (7) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

PAGE 18

§ 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. Allowances shall be clearly tracked in a separate report and updated on a monthly basis to Owner and Architect.

...

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

...

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness. The Contractor shall separately track, on no less than a monthly basis, all materials and equipment provided under allowances including, but not limited to, (i) a description of the allowance; (ii) amounts actually spent for each allowance; and (iii) variances between allowance amounts in the Contract Sum and amounts actually spent.

...

§ 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. shall deliver the full-time, on-site superintendent approved by the Owner through the selection process.

§ 3.9.3 The Contractor shall not employ assign 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. unless the superintendent is no longer employed by the Contractor. Contractor shall provide resumes of multiple replacement superintendents and the Owner reserves the right to interview and accept any proposed changes in superintendents.

§ 3.9.4 During the course of the Project, if in the Owner's opinion any individuals become unfit to continue on the Project or the Owner feels that it is in the best interest of the Project that an individual needs to be removed, the Owner may direct the Contractor to remove such individual from the Project and Contractor shall promptly do so. If the Contractor replaces any key staff member of their team for any reason, the Owner must be provided with a detailed resume in advance and then an opportunity to meet with and approve the proposed replacement staff member prior to assignment to the Project. No such approval shall in any way relieve the Contractor of responsibility for the performance of its employees, contractors and agents in connection with the Project

PAGE 19

§ 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, information, and the Owner's approval, a Contractor's construction schedule for the Work in a critical path method format, the "Construction Schedule". The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The approved Construction Schedule shall be incorporated into the Final Guaranteed Maximum Price proposal and must show a reasonable critical path in adequate detail to track the detail of every critical and major element of the Project. The Construction Schedule must incorporate the logic for the preparation, submittal and approval of shop drawings and submittals in a timely manner that allows adequate review, fabrication and delivery to the site. The Construction Schedule must also incorporate the sequencing and interrelationship between each of the trades. Under no circumstance shall the Contract Time be adjusted without an executed Change Order.

§ 3.10.1.1 The Construction Schedule shall be revised by the Contractor at least monthly or when directed to do so more frequently by the Owner. All revised Construction Schedules must demonstrate updates and or changes from the previously approved Construction Schedule. In the event that the Contractor ever presents a schedule that does not provide for Substantial Completion to be achieved by the Contract Time, the Contractor shall also present a recovery plan that will allow the Contractor to achieve Substantial Completion by the Contract Time. The Owner will determine if the recovery plan or the revised schedule shall be accepted. If the Owner elects to accept the revised schedule in writing, it shall become the approved Construction Schedule that the Owner will rely upon to make commitments and obligations. Receiving revised schedules at the weekly Owner/Architect/Contractor (O/A/C) meeting or in another format shall not be construed as an acceptance by the Owner. Any revision to the approved Construction Schedule requires the Owner's written approval.

§ 3.10.1.2 The Contractor shall also prepare a three (3) week look ahead schedule each week for review at the O/A/C meetings, focusing on the in-depth detail of the upcoming weeks activities in a manner that reflects the planned

day-to-day activities in the field. The detail shall be adequate to allow tracking of daily progress through field observation walks and reports.

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

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

§ 3.10.4 The Contractor shall include within the Construction Schedule a specific number of weather delay days per year for the duration of the Project. Contractor shall state its assumptions used to determine the number of weather delay days.

...

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

§ 3.11.1 The Contractor shall keep detailed daily logs and submit these logs to the Architect and Owner each week at the O/A/C meetings. The detailed written daily logs shall include a description of the Work performed the previous week. Each such daily report shall be prepared and signed by the project manager or superintendent, on behalf of the Contractor. Each report shall at a minimum include the following information for that day concerning the Contractor and each Subcontractor (including each Sub-subcontractor): materials and equipment being installed, number of individuals working, the hours worked, the type and location of the work being performed by each trade and each item of major equipment being used. The report shall also include other information such as temperature and weather recorded during the work period and any significant events occurring on the job site with regard to the Work or the Project.

PAGE 20

§ 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. Shop Drawings are not to be treated as an administrative pass through to the Architect. The Contractor is required to complete its own detailed review for conformance of the Shop Drawings and other submittals with the Contract Documents with competent and qualified staff prior to forwarding on to the Architect.

...

§ 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~~ action unless the Contractor makes a specific written request of the Architect to review a submittal about which the Contractor has reasonable questions or concerns.

...

§ 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. Submissions which in the Architect's opinion are incomplete, contain numerous errors, or have not been adequately checked by the Contractor may be returned by the Architect for proper review and re-submittal. In the event that the Architect and Contractor are in dispute over the quality of any submittal, the Owner shall be the decision maker regarding the issue.

...

§ 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 review or 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.

PAGE 21

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. Contractor acknowledges that there may be unique site considerations applicable to the development and construction of the Project including, without limitation, (i) the necessity to perform the work in areas adjacent to existing services and buildings; (ii) limited availability of space within the project site for on-site storage of materials, parking, and for other than essential construction operations; and (iii) the need for careful scheduling of construction services to minimize to the greatest extent possible or eliminate any disruption to the surrounding facilities.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. Project on a daily basis. The Owner may direct the Contractor to provide immediate clean-up of the site and the Contractor shall comply at no additional cost to the Owner.

PAGE 22

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

PAGE 23

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

the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

...

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for ~~Payment, the Architect will review and Payment and the progress and quality of the Work, the Architect will review and, after consultation with the Owner,~~ certify the amounts due the Contractor and will issue Certificates for Payment in such amounts. The Contractor's Application for Payment must be supported by the Contractor's affidavit and all lien waivers relating thereto in accordance with the Contract Documents. Notwithstanding anything to the contrary in any other Contract Documents, the Architect shall not have authority, by making its certification, to bind Owner to pay Contractor any amount.

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

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

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

PAGE 24

§ 4.2.11 The Architect will interpret and ~~decide~~ advise on 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.

...

§ 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~~ Contractor retained directly by the Owner.

§ 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. The

terms "Subcontractor" or "Sub-subcontractor" may also include all material and equipment suppliers retained, as applicable.

...

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

PAGE 25

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. No agreements entered into between the Contractor and Subcontractor shall relieve the Contractor of its responsibilities to the Owner under the Contract Documents. Each subcontract agreement and purchase order 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.

...

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights (to the extent they relate to Work satisfactorily performed but not paid by Owner) and obligations under the subcontract.

§ 5.4.1.1 To the extent that the Owner elects to accept assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall execute and deliver all such papers and take all such steps, including the assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All contracts between Contractor and Subcontractors (including without limitation purchase orders, other contracts for purchase of materials and rental agreements) entered into by the Contractor shall contain provisions allowing for assignment to the Owner as described above and further assignment by Owner.

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

...

§ 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. Contractor agrees to allow access to the Project site and all areas of the Work as may be reasonably necessary for the performance of work by others, including, without limitation, storage of materials and equipment, use of vertical transportation and connection to utilities and services. Such parties shall abide by all safety program requirements of Contractor.

PAGE 26

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

...

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.~~ Owner will make a good faith allocation of the cost among those the Owner believes are responsible, which allocation will be binding on Contractor and Owner's separate contractors, and Contractor shall promptly pay to Owner its share of the costs as so determined.

...

§ 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. Changes in the Work may be made without notice to the Contractor's surety and absence of such notice shall not relieve such sureties of any obligations to the Owner. Notice of changes in the Work to surety companies is the responsibility of the Contractor.

PAGE 27

§ 7.1.2.1 A field directive or field order shall not be recognized as having any impact upon the Contract Sum or the Contract Time and Contractor shall have no claim therefore unless Contractor notifies Architect and Owner in writing, prior to complying with same and in no event later than ten (10) business days from the date such direction or order was given, that Contractor intends to submit a change proposal relating thereto. Following such notice to Architect and Owner, Contractor shall prepare and submit to the Architect and Owner for Owner's approval its change proposal within ten (10) business days following the issuance of the field directive or field order, taking into account the nature and extent of the change to the Work required thereby.

§ 7.1.2.2 When submitting its change proposal, Contractor shall include and set forth, in clear and precise detail, breakdowns of labor, materials and all mark-ups for all trades involved and the estimated impact on the Construction Schedule. Contractor shall furnish spreadsheets from which the breakdowns were prepared, plus spreadsheets if requested of any Subcontractors and detailed breakdown from Subcontractors.

...

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

...

- .3 The extent of the adjustment, if any, in the Contract Time.

The Contractor and Architect acknowledge and agree that the Contract Sum and Contract Time cannot be adjusted without a properly executed Change Order.

Pursuant to C.R.S. 24-91-103.6(2)(b), no change order, as defined in C.R.S. 24-101-301(2), or other form of order or directive shall be issued by Owner requiring additional compensable Work to be performed, which work causes the aggregate amount payable under the Contract to exceed the amount appropriated for the original Contract, unless

Contractor is given written assurance by Owner that lawful appropriations to cover the costs of the additional work have been made and the appropriations are available prior to performance of the additional work or unless such work is covered under a remedy-granting provision in the Contract.

Pursuant to C.R.S. 24-91-103.6(2)(c), if Owner issues any form of order or directive requiring additional compensable work to be performed, Owner shall reimburse the Contractor for its costs, as part of its monthly Applications for Payment, for all additional directed Work performed until a Change Order is finalized. In no instance shall such reimbursements be required before the Contractor has submitted an estimate of cost to Owner for the additional compensable work to be performed.

PAGE 28

- .1 Mutual acceptance of a lump sum or not-to-exceed amount properly itemized and supported by sufficient substantiating data to permit evaluation;

...

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

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee ~~costs approved by the Architect;~~ costs, approved by the Architect, and when appropriate, at the billing rates reflected in Exhibit A;

...

- .5 Costs of supervision and field office personnel directly attributable to ~~the change;~~ the change, at the billing rates as reflected in Exhibit A.

...

§ 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 Owner and 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.

...

§ 7.3.10 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-Contractor~~ will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

PAGE 29

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. Commencement of the Work is not a Notice-to-Proceed with construction.

...

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined. The term "Business Day" shall mean a calendar day, exclusive of weekends and federal legal holidays.

...

§ 8.2.2 The Contractor shall ~~not knowingly, not,~~ 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.

...

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, occurrences beyond the reasonable control and without fault or negligence of Contractor, documented unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented as over and above those included in the Construction Schedule in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the ~~Architect-Owner~~ Owner and Contractor agree, but only if such delay actually impacts the critical path of the Work and Substantial Completion of the Project.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article ~~15.15~~ and administered as stated below:

§ 8.3.2.1 Notification. Within three (3) Business Days after the discovery of or the commencement of a disruption in the Work, Contractor must notify the Architect and the Owner in writing of the effect, and must state specifically the condition that is causing or may cause delay or disruption and must set forth therein suggestions for avoiding such delay or disruption.

§ 8.3.2.2 Request. A formal request for an extension of time must be submitted within ten (10) business days of the time of occurrence or when Contractor became aware of a condition or event, giving rise to the delay and must provide the basis for the extension of time, identifying the causes of delay and describing the nature and expected duration of the delay and its effect on the completion of the Work.

§ 8.3.2.3 Approval. An extension of time shall be granted if and only if (a) the cause of the delay arises after the issuance of Notice to Proceed and neither was, nor could have been reasonably anticipated by Contractor before such issuance; (b) Contractor demonstrates by the use of a progress schedule that the completion of the Project will actually and necessarily be delayed; (c) the effect of the delay cannot be avoided or mitigated by the Contractor's exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the delay; (d) the Contractor makes the written request to the Architect and Owner on account of the delay for an extension of time in accordance with this Contract.

§ 8.3.2.4 Compensation. If Contractor shall at any time claim or intend to claim compensation for any damage sustained by reason of any such delay or disruption, Contractor shall (in addition to providing notice under section 8.3.2.1 above on or before the fifteenth (15th) day of the month following that in which any such damage shall have been sustained, provide the Architect and the Owner with an itemized written statement, duly executed by the Contractor, setting forth in detail the nature, extent and amount of such damage and having attached thereto copies of all documentation then in the possession of the Contractor or obtainable to support such claim.

§ 8.3.2.5 Avoidance. Notwithstanding any other provision of the Contract to the contrary or any applicable law, since the purpose of each of the foregoing requirements is to provide the Owner with the opportunity to avoid or minimize the effect of any such condition, the failure by the Contractor to strictly comply with the requirements set forth in sections 8.3.2.1, 8.3.2.2, 8.3.2.3 or 8.3.2.4 above shall constitute a waiver and release by the Contractor of any and all claims for damages for delay or disruption arising from any such conditions.

PAGE 30

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect and Owner before the first Application for ~~Payment, Payment under the Final Guaranteed Maximum Price,~~ allocating the entire Contract Sum to the various portions of the Work—the Work, and Construction Specification Industry (CSI) categories, and prepared in such detail as the Owner may require. 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, Owner. This schedule, when approved by the Owner, and~~ unless objected to by the Architect,

shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Owner or Architect may require, and unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

...

§ 9.3.1 ~~At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, Contractor shall review a draft Application for Payment with the Architect and Owner approximately five (5) days before the end of each calendar month during the Construction Phase and shall submit a final Application for Payment in accordance with approved Schedule of Values, as required under Section 9.2 , for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.~~

§ 9.3.1.1 ~~As provided in Section 7.3.9, such applications-When agreed to by the Owner and Contractor, Applications for Payment 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 supplier. All Subcontractor and material or equipment suppliers must be paid within ten (10) days of receipt of payment by the Contractor for the stated work included within the monthly Applications for Payment. The Contractor shall require each Subcontractor to make payments to Sub-subcontractors, vendors and suppliers in a similar manner. If the Contractor or Subcontractor intends to withhold payments to a subcontractor or material or equipment supplier for any reason, those funds shall not be included within an Application for Payment to the Owner and Architect. Owner and Architect have the right to request and Contractor shall then also provide written evidence from the Contractor that the Contractor has properly paid Subcontractors, Sub-subcontractors, vendors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within ten (10) days, the Owner shall have the right to contact Subcontractors and Sub-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. Owner's inquiry of payment to Subcontractors, vendors and suppliers in no way relieves Contractor of its responsibility to ensure payment.~~

§ 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 Project materials and equipment suitably stored off the site at a licensed and bonded warehouse or 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. For materials and equipment stored off-site, the Contractor shall provide Owner a certificate of property insurance for the stored materials and/or equipment with the Owner listed as an additional insured and loss payee, an itemized list of the stored materials and/or equipment, a bill of sale for the stored materials and/or equipment in the exact dollar value for the product and a site visit to the storage location to verify materials and/or equipment are in storage at the agreed location to be coordinated by the Contractor, all satisfactory to the Owner in its discretion.~~

PAGE 31

§ 9.3.4 ~~Before the Contractor shall become entitled to any progress or final payments under the terms of this Contract, the Contractor must first submit waivers of liens, on a form approved by the Owner. The required waivers of liens are required from the Contractor and all Subcontractors and Sub-subcontractors with each application for payment in the following manner:~~

- .1 Partial Conditional waivers of liens are required from the Contractor and all Subcontractors and material suppliers for whom the Contractor is requesting disbursement within the current Application for Payment.
- .2 Partial Unconditional waivers of liens are required from the Contractor and all Subcontractors and material suppliers for which Contractor previously received payment.
- .3 Final Conditional waivers of liens are required from the Contractor and all Subcontractors and material suppliers for whom the Contractor is requesting disbursement within the current Application for Payment.
- .4 Final Unconditional waivers of liens are required from the Contractor and all Subcontractors and material suppliers for which Contractor previously received final payments. Final Unconditional waivers of liens are due within fourteen (14) days of receipt of final payment to the Contractor or Subcontractors or material suppliers. Failure to comply shall constitute a default by Contractor.

§ 9.3.5 Failure to provide the proper waivers of liens as described in Section 9.3.4 shall result in payments or partial payment being withheld until such waivers have been properly provided to the Owner.

§ 9.3.6 The Contractor shall include in every Subcontractor and major supplier agreement the requirements of waivers of liens prior to award of a subcontract or purchase order.

§ 9.3.7 Contractor must provide a monthly report to the Owner notifying Owner of any lien waivers that have not been provided.

PAGE 32

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

§ 9.5.1 The Owner or 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 Owner or Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Owner or Architect is unable to certify payment in the amount of the Application, the Owner or Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Owner or 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

§ 9.5.2 Owner shall make payment for the amounts which are approved in the Certificate for Payment within thirty (30) days after issuance, review and approval of the Certificate for Payment. When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously ~~withheld~~ withheld within the next Application for Payment.

§ 9.5.4 If the Owner or 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.

PAGE 33

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment of the amounts not in dispute 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. Contractor will pay Subcontractors, in accordance with its contractual obligations to such parties and in accordance with Colorado law, including without limitation C.R.S. 24-91-103(2), all the amounts Contractor has received from Owner on account of their work. Contractor will impose similar requirements on Subcontractors to pay those parties with whom they have contracted. Contractor will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 9.6.8 hereof.

...

§ 9.6.4 ~~The Owner has the right to request written evidence from the Contractor~~ Contractor shall provide Conditional and Unconditional lien waivers from subcontractors and material and equipment suppliers per the Contract Documents as evidence 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 next Application for Payment,~~ the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

...

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract ~~Documents,~~ Documents and paid all undisputed amounts, 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, any tier,~~ and shall pay or reimburse to Owner all reasonable costs and expenses that Owner incurs in discharging any such lien claim or other claim. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. Contractor shall, within thirty (30) days after notice from Owner, either furnish Owner a bond sufficient to discharge the lien claim or other claim or deposit in an escrow, a sum sufficient to discharge the lien claim or other claim. Such bond or cash escrow shall remain in place until the lien claim or other claim is removed from the property. Owner shall have the right to withhold from payments due or become due to Contractor an amount equal to one hundred and fifty percent (150%) of the amount of the lien claim or other claim until the same is released. 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.

PAGE 34

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 approved Application for Payment, or if the Owner does not pay the Contractor within seven-fourteen (14) days after the date established in the Contract Documents, the amount certified by the Architect and approved by the Owner or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use, subject only to completion of minor Punchlist Items, the absence of completion of which does not interfere with the Owner's intended use and operation of the Project.

§ 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~~ payment ("Contractor's Punch List"). 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~~ Punch List, the Architect will, and Owner may 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~~ Punch 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~~ Punch 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 to a value of up to three hundred percent (300%) for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

PAGE 35

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a ~~final Certificate for Payment~~ written notice to the Owner, with a copy to the Contractor 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.~~ is due and payable. If the Owner agrees and approves, the Owner will direct the Architect to issue the final Certificate for Payment. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise ~~satisfied~~, satisfied and that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of ~~surety~~, surety or sureties, 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,~~ the Contract including Conditional Final Lien Waivers followed by Unconditional Final Lien Waivers within fourteen (14) days after payment and Owner lien waivers and releases, in form satisfactory to Owner, from all persons, firms, and entities who have performed work or supplied materials or equipment for or in connection with the Work and an affidavit from Contractor that such waivers and releases cover all the labor, materials, and equipment for which Contractor is directly or indirectly responsible or for which any lien or claim could be filed, to the extent and in such form as may be designated by the Owner, by the Owner, (7) proof of final inspection and approval of the work by governmental and other authorities having jurisdiction over the Work, and Owner's receipt of all requisite certificates of occupancy, permits and approvals for which Contractor is responsible under the Contract Documents, (8) all operating manuals, warranties and other deliverables required by the Contract Documents; and (9) a certificate executed by Contractor stating that all other terms of the Contract Documents have been satisfied. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

PAGE 36

.3 terms of ~~special~~ warranties required by the Contract Documents; or

...

§ 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. The responsible member shall be the Contractor's Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Contractor's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Construction Manager's personnel, Subcontractors and others as applicable.

Contractor's responsibility for safety under this Section 10.2 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

PAGE 37

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given verbally to the other party within 24 hours of occurrence, and written notice provided within a reasonable time not exceeding 21-two (2) days after discovery. The written notice shall provide sufficient detail to enable the other party to investigate the matter.

...

§ 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 immediately, and provide appropriate notice in writing not more than 24 hours after recognition of the condition to both the Owner and the Architect.

...

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor or any subcontractor 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.

PAGE 38

§ 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. The cost of individual subcontractor bonds shall be reimbursable as a direct Cost of the Work, if required. The Contractor shall make recommendations to the Owner regarding individual subcontractor bonds at the time of subcontract award authorization.

PAGE 39

§ 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.

PAGE 40

§ 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 reimbursement 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. Contractor~~ with the prior approval of the Owner. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's ~~expense.expense and without reimbursement.~~

...

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.expense and without reimbursement.~~

...

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within ~~one year~~ two years 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~~ within fourteen (14) days 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~~two-year or extended 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~~two-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

...

§ 12.2.4 The Contractor shall bear the ~~cost~~cost, without reimbursement, 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.

PAGE 41

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, agents, heirs, 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.

...

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

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

PAGE 42

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

...

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate ~~the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located~~of six percent (6%) per annum.

...

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

...

- .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 wrongfully not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 ~~The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.~~ 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' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work ~~not executed, and costs incurred by reason of such~~ executed up to the date of termination.

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

...

- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or ~~suppliers;~~ Suppliers;

...

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

- .1 ~~Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;~~
- .2 ~~Accept assignment of subcontracts pursuant to Section 5.4; and~~
- .3 ~~Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.~~ In the event of a default by Contractor that continues uncured for seven (7) days after Contractor is given notice thereof, Owner may, after consultation with the Architect, at Owner's option, exercised by written notice to Contractor, terminate the Contract, take over the Work and take possession of the Project site and all tools, equipment, and supplies then being used in connection with the Work (including those owned by Contractor) and finish the Work by whatever method it deems expedient, including accepting the assignment to Owner of any or all of the subcontracts.

If Owner terminates the Contract pursuant to Section 14.2.1, Contractor shall not be entitled to receive any further payment, except that if when the Work is finally complete the total cost to Owner for the Work (including amounts paid to Contractor and amounts paid to complete the Work) is less than the Contract Sum, Owner will pay to Contractor the lesser of (i) the Cost of Work completed by Contractor and not previously paid for by Owner or (ii) the amount which brings Owner's total cost for the Project up to the Contract Sum. If Owner's expense of completing the Work exceeds the unpaid balance of the Contract Sum, Contractor shall promptly pay the difference to Owner on demand. The total cost to Owner for the Work shall include, without limitation, all of Owner's direct and indirect costs of completion, including without limitation fees due to Architect and Owner's Representative Firm for

additional administration and consulting, plus ten percent of all Owner's costs incurred for the Work after the termination of the Contract for overhead and supervision. Upon the termination of this Contract pursuant to Section 14.2.1, Owners shall have no obligation to pay Contractor for any Work performed after such termination, and no obligation to make any further payments to the Contractor for Work performed before such termination, until the Project has been completed, accepted by the Owner, and the Owner has determined to the Owner's complete satisfaction that potential expenses, charges and claims relating to the performance of the Work have been satisfied. Any payments to Contractor shall in any event be reduced by amounts due to the Owner under the terms of the Contract Documents.

§ 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. The remedies provided to Owner pursuant to this Section 14.2 shall be in addition to all other remedies of any kind and nature which Owner may have, either at law or in equity, for any breach hereof or failure to perform by Contractor, including without limitation, the liquidated damages provided in the Agreement. All remedies of Owner shall be cumulative, and the exercise of one or more remedies by Owner hereunder shall not preclude the simultaneous exercise or subsequent exercise of other or additional remedies.

§ 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. In the event this Contract is terminated as provided herein, all obligations of Contractor relating to Work performed by Contractor prior to termination, including, without limitations, warranty and indemnification, shall survive such termination.

§ 14.2.5 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 payments which would otherwise be due and owing until the Work is finished.

§ 14.2.6 If the unpaid amount which would otherwise be due and owing to the Contractor 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 amount, 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.

§ 14.2.7 In the event that a Termination by the Owner for Cause should subsequently be determined to be wrongful, such termination for cause shall automatically be converted to a Termination by the Owner for Convenience and the provisions of Section 14.4. shall apply.

PAGE 43

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

PAGE 44

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for preconstruction or construction 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. Subcontracts.

...

§ 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. Notice of Claims by either party under this Section 15.1.3.1 shall be initiated within ~~21~~ seven (7) days after occurrence of the event giving rise to such Claim or within ~~21~~ seven (7) days after the claimant first

recognizes the condition giving rise to the Claim, whichever is later. In any event, a fully documented Claim for an adjustment in the Contract Sum or Claim for an adjustment in the Contract Time must be submitted no later than forty-five (45) days after the claimant first recognizes the condition giving rise to the Claim.

PAGE 45

§ 15.1.6.2 Weather delays which are normal and expected for the location of the Project and for the period of time are included within the Construction Schedule. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

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

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

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

§ 15.1.7 Consequential Damages

- .1 Notwithstanding anything herein to the Contrary (except as set forth in Section 15.1.7.2 below) neither Contractor nor Owner shall be liable to the other for any consequential losses or damages, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise, including but not limited to losses of use, profits, business, reputation, or financing;
- .2 The consequential damages limitation set forth in Section 15.1.7.1 above is not intended to affect the payment of liquidated damages set forth in Article 11 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner for damages that might otherwise be deemed to be consequential.

PAGE 46

§ 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, and 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution. The parties agree to follow the protocol for mediation and dispute resolution outlined in Section 9 of the Agreement.

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

Intentionally deleted.

§ 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.

...

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

~~Intentionally deleted.~~

~~§ 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.~~

~~Intentionally deleted.~~

~~§ 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.~~

~~Intentionally deleted.~~

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

~~Intentionally deleted.~~

...

~~§ 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).~~

~~Intentionally deleted.~~

~~§ 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.~~

~~Intentionally deleted.~~

~~§ 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.~~

~~Intentionally deleted.~~

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:21:45 CT on 02/28/2022 under Order No. 4664365076 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, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

ATTACHMENT A
NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION

COST SUMMARY

Issued Date: 11/24/2021
Submitted Date: 1/07/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

CSI CODE	DESCRIPTION		TOTAL PROJECT COST	BUILDING	SITE
	DIRECT COST TOTAL		\$ 12,237,931	\$ 10,474,496	\$ 1,763,435
01	General Requirements (within General Conditions)				
02	Existing Conditions		\$ 50,930	\$ -	\$ 50,930
03	Concrete		\$ 422,775	\$ 422,775	\$ -
04	Masonry		\$ 463,445	\$ 449,945	\$ 13,500
05	Metals		\$ 1,237,500	\$ 1,237,500	\$ -
06	Wood Plastics, and Composites		\$ 742,500	\$ 742,500	\$ -
07	Thermal and Moisture Protection		\$ 1,015,422	\$ 1,015,422	\$ -
08	Openings		\$ 960,982	\$ 960,982	\$ -
09	Finishes		\$ 1,339,600	\$ 1,339,600	\$ -
10	Specialties		\$ 162,762	\$ 162,762	\$ -
11	Equipment		\$ 75,000	\$ 75,000	\$ -
12	Furnishings		\$ 41,250	\$ 41,250	\$ -
13	Special Construction		\$ 378,350	\$ 378,350	\$ -
14	Conveying Equipment		\$ 160,655	\$ 160,655	\$ -
21	Fire Suppression		\$ 98,090	\$ 98,090	\$ -
22	Plumbing		\$ 415,780	\$ 415,780	\$ -
23	Heating, Ventilating, and Air Conditioning		\$ 1,601,620	\$ 1,601,620	\$ -
25	Integrated Automation		\$ -	\$ -	\$ -
26	Electrical		\$ 964,140	\$ 826,640	\$ 137,500
27	Communications		\$ 270,000	\$ 270,000	\$ -
28	Electronic Safety and Security		\$ 158,125	\$ 158,125	\$ -
31	Earthwork		\$ 387,500	\$ 117,500	\$ 270,000
32	Exterior Improvements		\$ 882,755	\$ -	\$ 882,755
33	Utilities		\$ 408,750	\$ -	\$ 408,750
	GENERAL CONDITIONS TOTAL		\$ 983,997	\$ 891,577	\$ 92,420
	General Conditions (Not-to-Exceed from Attachment B) (Provide breakout split between Site and Building)	Bldg	\$ 983,997	\$ 891,577	\$ 92,420
	FEE TOTAL (Based on Direct Cost and General Conditions)		\$ 383,436	\$ 329,602	\$ 53,834
	Fee (Overhead & Profit) [3.00%]	2.90%	\$ 383,436	\$ 329,602	\$ 53,834
	SUBTOTAL CONSTRUCTION COSTS		\$ 13,605,364	\$ 11,695,675	\$ 1,909,690
	OTHER INDIRECTS TOTAL (No fees on these costs)		\$ 1,081,616	\$ 929,757	\$ 151,859
	Construction Contingency on Direct Work [5.00%]	5.00%	\$ 611,897	\$ 525,986	\$ 85,910
	Commercial General Liability Insurance [1.14%]	1.14%	\$ 139,512	\$ 119,925	\$ 19,588
	Other Insurances (pollution liability, etc.) [n/a]	0.00%	\$ -	\$ -	\$ -
	Contractor Payment & Performance Bonds [.75%]	0.75%	\$ 91,784	\$ 78,898	\$ 12,887
	Builder's Risk Insurance [by owner per Exhibit B]	0.00%	\$ -	\$ -	\$ -
	Subguard Rate if appropriate [1.50%]	1.50%	\$ 183,569	\$ 157,796	\$ 25,773
	Preconstruction (Not to Exceed from Attachment B)		\$ 54,854	\$ 47,152	\$ 7,702
	TOTAL CONSTRUCTION COSTS		\$ 14,686,980	\$ 12,625,432	\$ 2,061,548

NOTES:

- 1 INCLUDE A DETAILED BUDGET THAT SUPPORTS THE COSTS IN THIS SUMMARY (YOUR FORMAT)
- 2 Provide a cost for Builder's Risk in the event the Owner requests it be carried by Contractor.
- 3 Provide the actual % Rate for Insurance/Builders Risk/Bond/Fee above directly in the description.
- 4 General Requirements are included with General Conditions.
- 5 Provide a cost for Performance and Payment Bonds in the event the Owner requests it be carried by Contractor.
- 6 Return Attachment A in electronic format. Do not convert to PDF.
- 7 Pricing above (including any estimated escalation) must reflect the proposed schedule presented with the response to this proposal.
- 8 Do not deviate from this format.

Please treat this proprietary information as confidential and privileged material which is intended for the sole viewing of the recipient. Any other distribution is strictly prohibited.

ATTACHMENT B
NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION

DETAILED GENERAL CONDITIONS

Issued Date: 11/24/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST	COMMENTS / CLARIFICATIONS
1	PRECONSTRUCTION:					
2	PROJECT PRECONSTRUCTION TOTAL				\$ 54,854.00	
3	Officers of the Company (included in fee)	---	---	---		Included in Fee
4	Project Executive (included in fee)	---	---	---		Included in Fee
5	Sr. Preconstruction Manager		HR		\$ -	
6	Preconstruction Manager	250	HR	\$ 116.00	\$ 29,000.00	
7	Sr. Estimator		HR		\$ -	
8	Estimator	80	HR	\$ 106.00	\$ 8,480.00	
9	Sr. Project Manager	32	HR	\$ 137.00	\$ 4,384.00	
10	Project Manager		HR		\$ -	
11	Sr. Project Engineer		HR		\$ -	
12	Project Engineer		HR		\$ -	
13	Assistant Engineer		HR		\$ -	
14	Senior Project Superintendent	24	HR	\$ 126.00	\$ 3,024.00	
15	Project Superintendent		HR		\$ -	
16	Assistant Superintendent		HR		\$ -	
17	Field Engineer		HR		\$ -	
18	MEP Coordinator	24	HR	\$ 148.00	\$ 3,552.00	
19	Administrative Support		HR		\$ -	
20	Project Specific Accounting		HR		\$ -	
21	Scheduling		HR		\$ -	
22	3D Modeling/BIM	16	HR	\$ 116.00	\$ 1,856.00	
23	Plans and Travel Expenses for Precon	1	LSUM	\$ 4,558.00	\$ 4,558.00	
24	[enter other staff positions]		HR		\$ -	
25					\$ -	
26	TOTAL PRECONSTRUCTION (NOT TO EXCEED)				\$ 54,854.00	
27						
28						
29	GENERAL CONDITIONS:					
30	PROJECT SUPERVISION TOTAL (On-Site Personnel Only)				\$ 790,457.14	
31	Officers of the Company (included in fee)	---	---	---		Included in Fee
32	Project Executive (included in fee)	---	---	---		Included in Fee
33	Sr. Project Manager	800	HR	\$ 140.93	\$ 112,742.86	Prorated 3 months in '22 and 11 months in '23
34	Project Manager		HR		\$ -	
35	Assistant Project Manager		HR		\$ -	
36	Sr. Project Engineer		HR		\$ -	
37	Project Engineer	1212	HR	\$ 87.36	\$ 105,911.80	Prorated 3 months in '22 and 11 months in '23
38	Assistant Engineer		HR		\$ -	
39	Senior/General Superintendent	2598	HR	\$ 129.20	\$ 335,661.60	Prorated 3 months in '22 and 12 months in '23 (extra month is for City Hall demo)
40	Project Superintendent		HR		\$ -	
41	Assistant Superintendent		HR		\$ -	
42	Field Engineer	2425	HR	\$ 77.36	\$ 187,575.60	Prorated 3 months in '22 and 11 months in '23
43	MEP Coordinator		HR		\$ -	
44	Administrative Support	485	HR	\$ 70.36	\$ 34,120.40	Prorated 3 months in '22 and 11 months in '23
45	Project Specific Accounting		HR		\$ -	
46	Scheduling		HR		\$ -	
47	Safety Director (not full time on site)	121	HR	\$ 119.14	\$ 14,444.88	Prorated 3 months in '22 and 11 months in '23
48	Safety Personnel		HR		\$ -	
49	Quality Control Personnel		HR		\$ -	
50	Project Estimator		HR		\$ -	
51	Carpenter Foreman		HR		\$ -	
52	Carpenter	---	---	---	---	Distribute in tasks below
53	Labor Foreman		HR		\$ -	
54	3D Modeling/BIM		HR		\$ -	Subcontracted scope to be included in the cost of work
55	[enter other staff positions]		HR		\$ -	
56	[enter other staff positions]		HR		\$ -	
57	PROJECT ON-SITE OFFICE TOTAL				\$ 30,083.00	
58	Office Facilities / Rent (Construction)		MOS		\$ -	Will use existing Town Hall building for offices
59	Office Facilities / Rent (Owner & A/E Staff)		MOS		\$ -	
60	Street/Sidewalk Closure Permits for temporary office facilities		MOS		\$ -	
61	Office Equipment	14	MOS	\$ 350.00	\$ 4,900.00	
62	Office Furniture		LS		\$ -	
63	Office Mobilization and Demobilization		EA		\$ -	
64	Janitorial	14	MOS	\$ 50.00	\$ 700.00	
65	Radios, Communication and Cell Phones	14	MOS	\$ 399.50	\$ 5,593.00	
66	Company Vehicle	---	---	---	---	See Travel Expenses
67	Company Vehicle fuel	---	---	---	---	See Travel Expenses
68	Field Office Staff Parking		MOS		\$ -	
69	Courier service		LS		\$ -	
70	Phone/Internet (T1/DSL) service		MOS		\$ -	Provided by Owner
71	On-site Data Processing (Computers, software, IT)	14	MOS	\$ 735.00	\$ 10,290.00	
72	Project photos/Webcam, etc.	14	MOS	\$ 250.00	\$ 3,500.00	
73	Office Supplies	14	MOS	\$ 125.00	\$ 1,750.00	
74	Postage/Fed ex	1	LS	\$ 450.00	\$ 450.00	
75	Printing and reproduction	1	LS	\$ 1,500.00	\$ 1,500.00	
76	Drinking Water	14	MOS	\$ 100.00	\$ 1,400.00	
77					\$ -	

ATTACHMENT B
NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION

DETAILED GENERAL CONDITIONS

Issued Date: 11/24/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST	COMMENTS / CLARIFICATIONS
78					\$	

ATTACHMENT B
NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION

DETAILED GENERAL CONDITIONS

Issued Date: 11/24/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST	COMMENTS / CLARIFICATIONS
79	TEMPORARY FACILITIES & EQUIPMENT TOTAL				\$ 75,092.94	
80	Electrical distribution		MOS		\$ -	Included in Direct Cost of Work
81	Electrical Utility Connection (Temp offices & jobsite)		EA		\$ -	Included in Direct Cost of Work
82	Electrical consumption costs (Temp offices)		MOS		\$ -	By owner
83	Temporary/Jobsite Lighting		MOS		\$ -	Included in Direct Cost of Work
84	Electrical Generator	4	MOS	\$ 1,400.00	\$ 5,600.00	
85	Fuel for Generator	4	MOS	\$ 450.00	\$ 1,800.00	
86	Water - Construction and Hydrant Use	14	MOS	\$ 250.00	\$ 3,500.00	
87	Temporary Heating and Cooling		MOS		\$ -	Included in Direct Cost of Work
88	Gas/Propane consumption costs		MOS		\$ -	Included in Direct Cost of Work
89	Fire protection (temp. stand pipe, FDC, etc.)		LS		\$ -	Not applicable
90	Sanitation facilities	14	MOS	\$ 810.00	\$ 11,340.00	6 ea Portable Toilets and Maintenance
91	Crane Rental		MOS		\$ -	Included in Direct Cost of Work
92	Crane set-up, tear-down, foundations, pads, rails, etc.		LS		\$ -	Included in Direct Cost of Work
93	Crane Operator		HRS		\$ -	Included in Direct Cost of Work
94	Man & Material Hoist - Equipment Rental		MOS		\$ -	Included in Direct Cost of Work
95	Man & Material Hoist - Set-up & Tear-down		EA		\$ -	Not applicable
96	Man & Material Hoist - Operator		MOS		\$ -	Not applicable
97	Temporary use of elevator (protection, extended maint,)	2	MOS	\$ 750.00	\$ 1,500.00	
98	Temporary use of elevator - Operator		MOS		\$ -	Not applicable
99	Forklift (not associated with direct cost of work activities)	8	MOS	\$ 2,700.00	\$ 21,600.00	Includes equipment rental, delivery, and pick-up
100	Skidsteer (not associated with direct cost of work activities)	7	MOS	\$ 2,300.00	\$ 16,100.00	Includes equipment rental, delivery, and pick-up
101	Contractor misc. site equipment		MOS		\$ -	
102	Equipment Operating Expenses	14	MOS	\$ 350.00	\$ 4,900.00	Fuel, oil, service, maintenance, etc.
103	Temporary stairs, scaffold, landing platforms, ladders, etc.		MOS		\$ -	Included in Direct Cost of Work
104	Temporary Site Fencing (GC Compound)	14	MOS	\$ 175.21	\$ 2,452.94	Installation, maintenance, rental, and removal
105	Access to the site (including maintenance)		LS		\$ -	Included in Direct Cost of Work
106	Staging and/or storage areas (on and off site)		LS		\$ -	Included on Direct Cost of Work
107	Storage Containers	14	LS	\$ 225.00	\$ 3,150.00	
108	Construction Signage		LS		\$ -	Included in Direct Cost of Work
109	Rodent and Pest Control		LS		\$ -	Not applicable, Excluded
110	SWWMP/Erosion Control/Dust Control/Street Cleaning	14	MOS	\$ 225.00	\$ 3,150.00	Silt fence, tracking pads, BMPs, etc.
111	Trade Parking, Temporary Parking Lot, Bus, etc.		MOS		\$ -	Not applicable
112					\$ -	
113					\$ -	
114	ENGINEERING TOTAL				\$ -	
115	Initial Building and Periodic Confirmation Layout		HRS		\$ -	
116	Horizontal and Vertical Building controls		HRS		\$ -	
117	Surveying (Initial survey, benchmarks, etc.)		LS		\$ -	Typically independent/3rd party
118	Existing conditions survey, seismic sensors, etc.		LS		\$ -	
119	Contractor Required 3rd Party Reviews/Consultants		LS		\$ -	Enclosure, MEP, etc.
120	Subsurface Utility Exploration (locates, pot-holing, exploratory excavation, etc.)		LS		\$ -	
121					\$ -	
122	SAFETY & SECURITY TOTAL				\$ 13,860.00	
123	Safety inspections (3rd party)		LS		\$ -	Not applicable
124	Jobsite safety (PPE, first aid, eye wash, etc.)	14	LS	\$ 150.00	\$ 2,100.00	
125	Perimeter guardrails, safety nets, barricades, etc.		LS		\$ -	Included in Direct Cost of Work
126	Covered sidewalk enclosures		LS		\$ -	Not applicable
127	Fire safety (Fire extinguishers, etc.)		LS		\$ -	Included in item 124
128	Fire watch		HR		\$ -	Included in Direct Cost of Work
129	Site Protection / Security	14	MOS	\$ 840.00	\$ 11,760.00	Access control, cameras, etc.
130	Security Guard		MOS		\$ -	Not applicable, Excluded
131	Badging, background checks, etc.		LS		\$ -	Not applicable, Excluded
132					\$ -	
133					\$ -	
134	SITE CONDITIONS TOTALS				\$ 49,013.57	
135	Project interim clean-up	610	HR	\$ 44.57	\$ 27,188.57	Included 10 hrs/week for 61 weeks
136	Project final clean-up	27500	SF	\$ 0.45	\$ 12,375.00	
137	Small Tools and Consumables	14	MOS	\$ 250.00	\$ 3,500.00	
138	Dumpsters / LEED Dumpsters	14	MOS	\$ 425.00	\$ 5,950.00	For GC Compound Only
139	Trash Chute		MOS		\$ -	Not applicable
140	Weather protection/Temporary Enclosure		LS		\$ -	Included in Direct Cost of Work
141	Finishes Material/Product Protection		LS		\$ -	Included in Direct Cost of Work
142	Traffic Control, Traffic Signage, and Flagging		LS		\$ -	Included in Direct Cost of Work
143	Temporary dewatering system/equipment		LS		\$ -	Included in Direct Cost of Work - if required
144					\$ -	
145					\$ -	
146	TRAVEL TOTALS (Provide Detailed Assumptions with Cost Breakdown and provide a detailed explanation of the cost in separate attachment).				\$ 25,490.50	
147	Travel Expenses (including Airfare, Car Rentals, Staff Vehicles, Fuel, Parking, etc.)	14	LS	\$ 1,820.75	\$ 25,490.50	Superintendent, PM trucks and fuel
148	Housing (including temporary housing, relocation, hotel, etc.)		LS		\$ -	Not applicable
149	Subsistence/Per Diem (including meals)		MOS		\$ -	Not applicable
150					\$ -	
151					\$ -	
152	TOTAL GENERAL CONDITIONS (NOT TO EXCEED)				\$ 983,997.15	

NOTES:

- 1 It is the Owner's intent that the General Contractor work under a complete "open book" approach.
- 2 It is the Owner's intent that all General Conditions' costs will be identified and included in this Attachment.

**ATTACHMENT B
NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION**

DETAILED GENERAL CONDITIONS

Issued Date: 11/24/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST	COMMENTS / CLARIFICATIONS
3	Do not modify the order of these items. If additional space is required to capture further detail, rows may be added at the bottom of the list under the appropriate headings within the spreadsheet. Please bold all added items.					
4	General Conditions will become a separate not-to-exceed guarantee within the total GMP.					
5	All pertinent travel and temporary lodging expenses for the project must be included within the General Conditions and this spreadsheet.					
6	Leave rows blank that do not apply.					
7	Return Attachment B in electronic format. Do not convert to PDF.					

Please treat this proprietary information as confidential and privileged material which is intended for the sole viewing of the recipient. Any other distribution is strictly prohibited.

ATTACHMENT C
 NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION

LABOR BURDEN RATES

Issued Date: 11/24/2021
 Submitted Date: 1/07/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

ITEM NO.	SALARIED STAFF POSITION (PRECON)	BASE HOURLY LABOR RATE	BURDEN RATE %	2022			2023			2024		
				BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE
1	Officers of the Company (included in fee)	---	---	---	---	---	---	---	---	---	---	---
2	Project Executive (included in fee)	---	---	---	---	---	---	---	---	---	---	---
3	Sr. Preconstruction Manager (MEP)	---	---	---	---	---	---	---	---	---	---	---
4	Preconstruction Manager	69.05	68%	116.00	---	---	120.00	---	---	---	---	---
5	Sr. Estimator	---	---	---	---	---	---	---	---	---	---	---
6	Estimator	63.10	68%	106.00	---	---	110.00	---	---	---	---	---
7	Sr. Project Manager	81.55	68%	137.00	---	---	142.00	---	---	---	---	---
8	Project Manager	69.05	68%	116.00	---	---	120.00	---	---	---	---	---
9	Sr. Project Engineer	---	---	---	---	---	---	---	---	---	---	---
10	Project Engineer	50.60	68%	85.00	---	---	88.00	---	---	---	---	---
11	Assistant Engineer/Intern	25.60	68%	43.00	---	---	45.00	---	---	---	---	---
12	Senior Project Superintendent	75.00	68%	126.00	---	---	130.00	---	---	---	---	---
13	Project Superintendent	63.10	68%	106.00	---	---	110.00	---	---	---	---	---
14	Assistant Superintendent	56.55	68%	95.00	---	---	98.00	---	---	---	---	---
15	Field Engineer	44.64	68%	75.00	---	---	78.00	---	---	---	---	---
16	MEP Coordinator	88.10	68%	148.00	---	---	153.00	---	---	---	---	---
17	Administrative Support	40.48	68%	68.00	---	---	71.00	---	---	---	---	---
18	Project Specific Accounting	---	---	---	---	---	---	---	---	---	---	---
19	Scheduling	---	---	---	---	---	---	---	---	---	---	---
20	3D Modeling/BIM	69.05	68%	116.00	---	---	120.00	---	---	---	---	---
21	[enter other staff positions]	---	---	---	---	---	---	---	---	---	---	---
22	[enter other staff positions]	---	---	---	---	---	---	---	---	---	---	---
	SALARIED STAFF POSITION (ON-SITE)	BASE HOURLY LABOR RATE	BURDEN RATE %	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE
23	Officers of the Company (included in fee)	---	---	---	---	---	---	---	---	---	---	---
24	Project Executive (included in fee)	---	---	---	---	---	---	---	---	---	---	---
25	Sr. Project Manager	81.55	68%	137.00	---	---	142.00	---	---	---	---	---
26	Project Manager	69.05	68%	116.00	---	---	120.00	---	---	---	---	---
27	Assistant Project Manager	---	---	---	---	---	---	---	---	---	---	---
28	Sr. Project Engineer	---	---	---	---	---	---	---	---	---	---	---
29	Project Engineer	50.60	68%	85.00	---	---	88.00	---	---	---	---	---
30	Assistant Engineer	25.60	68%	43.00	---	---	45.00	---	---	---	---	---
31	Senior/General Superintendent	75.00	68%	126.00	---	---	130.00	---	---	---	---	---
32	Project Superintendent	63.10	68%	106.00	---	---	110.00	---	---	---	---	---
33	Assistant Superintendent	56.55	68%	95.00	---	---	98.00	---	---	---	---	---
34	Field Engineer	44.64	68%	75.00	---	---	78.00	---	---	---	---	---
35	MEP Coordinator	---	---	---	---	---	---	---	---	---	---	---
36	Administrative Support	40.48	68%	68.00	---	---	71.00	---	---	---	---	---
37	Project Specific Accounting	---	---	---	---	---	---	---	---	---	---	---
38	Scheduling	---	---	---	---	---	---	---	---	---	---	---
39	Safety Director	69.05	68%	116.00	---	---	120.00	---	---	---	---	---
40	Safety Personnel	---	---	---	---	---	---	---	---	---	---	---
41	Quality Control Personnel	---	---	---	---	---	---	---	---	---	---	---
42	Project Estimator (on site)	---	---	---	---	---	---	---	---	---	---	---
43	3D Modeling/BIM	69.05	68%	116.00	---	---	120.00	---	---	---	---	---
44	[enter other staff positions]	---	---	---	---	---	---	---	---	---	---	---
45	[enter other staff positions]	---	---	---	---	---	---	---	---	---	---	---

ATTACHMENT D
 NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION

STAFF TIME ALLOCATION

Issued Date: 11/24/2021
 Submitted Date: 1/07/2021

FIRM NAME: FCI CONSTRUCTORS, INC.	ITEM NO.	STAFF POSITION	INDIVIDUAL	TOTAL MONTHS	TOTAL HOURS	2022												2023													
						JAN HRS	FEB HRS	MAR HRS	APR HRS	MAY HRS	JUN HRS	JUL HRS	AUG HRS	SEP HRS	OCT HRS	NOV HRS	DEC HRS	JAN HRS	FEB HRS	MAR HRS	APR HRS	MAY HRS	JUN HRS	JUL HRS	AUG HRS	SEP HRS	OCT HRS	NOV HRS	DEC HRS		
PRECONSTRUCTION					426	0	42	48	48	46	54	58	64	66	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1	Officers of the Company (included in fee)			Incl. In Fee	0																										
2	Project Executive (included in fee)			Incl. In Fee	0																										
3	Sr. Preconstruction Manager				0																										
4	Preconstruction Manager		Steve Rademacher		8	250	30	30	30	30	30	40	30	30																	
5	Sr. Estimator				0	0																									
6	Estimator		Brett Loewen		6	80		10	10		10	10	20	20																	
7	Sr. Project Manager		Nathaniel Sperry		8	32	4	4	4	4	4	4	4	4																	
8	Project Manager				0	0																									
9	Sr. Project Engineer				0	0																									
10	Project Engineer				0	0																									
11	Assistant Engineer				0	0																									
12	Senior Project Superintendent		Luke Godwin		8	24	4	2	2	4	2	2	4	4																	
13	Project Superintendent				0	0																									
14	Assistant Superintendent				0	0																									
15	Field Engineer				0	0																									
16	MEP Coordinator		Dan Proud		8	24	4	2	2	4	4	2	2	4																	
17	Administrative Support				0	0																									
18	Project Specific Accounting				0	0																									
19	Scheduling				0	0																									
20	3D Modeling/BIM		Parker Stokke		4	16				4	4		4	4																	
21	[enter other staff positions]				0	0																									
22	[enter other staff positions]				0	0																									
CONSTRUCTION - SALARY					7641	0	0	0	0	0	0	0	0	0	533	533	533	533	533	533	533	533	533	533	533	533	533	534	534	173	
23	Officers of the Company (included in fee)			Incl. In Fee	0																										
24	Project Executive (included in fee)			Incl. In Fee	0																										
25	Sr. Project Manager		Nathaniel Sperry		14	800									57	57	57	57	57	57	57	57	57	57	57	57	57	58	58		
26	Project Manager				0	0																									
27	Assistant Project Manager				0	0																									
28	Sr. Project Engineer				0	0																									
29	Project Engineer		Beatriz Gutierrez		14	1212									87	87	87	87	87	87	87	87	87	87	87	87	87	87	87	87	
30	Assistant Engineer				0	0																									
31	Senior/General Superintendent		Luke Godwin		15	2598									173	173	173	173	173	173	173	173	173	173	173	173	173	173	173	173	
32	Project Superintendent				0	0																									
33	Assistant Superintendent				0	0																									
34	Field Engineer		Christian Wetter		14	2425									173	173	173	173	173	173	173	173	173	173	173	173	173	173	173	173	
35	MEP Coordinator				0	0																									
36	Administrative Support		Angela Spaulding		14	485									35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	
37	Project Specific Accounting				0	0																									
38	Scheduling				0	0																									
39	Safety Director		John Luthi		14	121									9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	
40	Safety Personnel				0	0																									
41	Quality Control Personnel				0	0																									
42	Project Estimator (on site)				0	0																									
43	3D Modeling/BIM				0	0																									
44	[enter other staff positions]				0	0																									
45	[enter other staff positions]				0	0																									
CONSTRUCTION - CRAFT/HOURLY					0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
46	Carpenter Foreman				0	0																									
47	Labor Foreman				0	0																									
48	Hoist / Elevator Operator				0	0																									
49	Crane Operator				0	0																									
50	[enter other positions]				0	0																									
51	[enter other positions]				0	0																									
					TOTAL: 8067	0	42	48	48	46	54	58	64	66	533	533	533	533	533	533	533	533	533	533	533	533	534	534	173		

- NOTES:
- 1 Include the individual per title and breakdown of committed hours per month of each member of staff that shall be on the
 - 2 Include the total months duration that each staff member will be working on the project.
 - 3 Add any columns for additional months you feel is appropriate.
 - 4 Assume 173 working hours per month as standard.

Please treat this proprietary information as confidential and privileged material which is intended for the sole viewing of the recipient. Any other disclosure is strictly prohibited.

**ATTACHMENT C
NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION**

LABOR BURDEN RATES

Issued Date: 11/24/2021
Submitted Date: 1/07/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

	CRAFT PERSONNEL POSITION	HOURLY LABOR RATE	BURDEN RATE %	2022			2023			2024		
				TOTAL HOURLY RATE W/BURDEN	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	TOTAL HOURLY RATE W/BURDEN	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	TOTAL HOURLY RATE W/BURDEN	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE
46	Carpenter Foreman	40.48	68%	68.00			71.00					
47	Carpenter	37.50	68%	63.00			65.00					
48	Labor Foreman	31.55	68%	53.00			55.00					
49	Laborer	25.60	68%	43.00			45.00					
50	Hoist / Elevator Operator											
51	Crane Operator											
52	[enter other positions]											
53	[enter other positions]											

NOTES:

- 1 Provide the applicable rates and labor burden as a percentage for the staff positions listed above. Do not use a blended rate, use actual burden rates per title.
- 2 The General Conditions estimate for Staff should take into consideration the duration of the Project. Therefore, the staff costs carried forward in Attachment B should represent a blended rate for the duration of the Project.
- 3 Add any staff positions and applicable rates for individuals not included here that are proposed on the project.
- 4 No fee markups (overhead or profit, bonuses, phones, computers or vehicle allowances, etc.) are allowed within these rates.
- 5 Rates above are subject to pre-audit.
- 6 For Salaried Individuals, Premium Time is not allowed.
- 7 Return Attachment C in electronic format. **Do not convert to PDF.**

Please treat this proprietary information as confidential and privileged material which is intended for the sole viewing of the recipient. Any other distribution is strictly prohibited.

**ATTACHMENT E
NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION**

ALLOWANCE LIST, ALTERNATES & UNIT PRICES

Issued Date: 11/24/2021
Submitted Date: 1/07/2021

FIRM NAME: FCI CONSTRUCTORS, INC.
ALLOWANCE LIST (INCLUDED IN THE COST SUMMARY)

ITEM NO.	DESCRIPTION	AMOUNT
1	Signage and Wall Graphics	\$ 35,000
2	Loading Dock Equipment	\$ 15,000
3	Warming Kitchen Equipment	\$ 50,000
4	Residential Appliances	\$ 10,000
5	Monument Sign	\$ 30,000
6	Repair Landscaping	\$ 10,000
7	Dewatering During Drilled Piers and Utilities Work	\$ 17,500
8	Site Amenities/Site Furnishings	\$ 45,000
9		
10		

ALTERNATES (NOT INCLUDED IN THE COST SUMMARY)

ITEM NO.	DESCRIPTION	AMOUNT
1	Demolition of the existing (old) recreation center building, utilities, landscaping, hardscapes and parking lot pavement. ***Includes 1 month Superintendent time, and backfill of building cavity w/common fill.	\$ 578,841
2	Intersection upgrades and signalization of the intersection of Community Center Drive and Memorial Parkway	\$ 438,171
3	Demolition of the existing (old) city hall building at the completion of the new city hall. Demo to include the building, utilities, landscaping, hardscapes and parking lot pavement. ***Includes 1 month Superintendent time, and backfill of building cavity w/common fill.	\$ 506,790
4	FCI Voluntary Alternate 1 - Removal of 1,000 cuyd existing contaminated soils	\$ 34,315
5	FCI Voluntary Alternate 2 - Administration costs for LEED Certification	\$ 55,959
6		
7		
8		

UNIT PRICE LIST - TBD

ITEM NO.	DESCRIPTION	AMOUNT
1		
2		
3		
4		
5		
6		
7		
8		

Please treat this proprietary information as confidential and privileged material which is intended for the sole viewing of the recipient. Any other distribution is strictly prohibited.

ATTACHMENT F
 NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION

RESPONSIBILITY & BUDGET MATRIX

Issued Date: 11/24/2021

Submitted Date: 1/07/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

ITEM NO.	DESCRIPTION	OWNER	GENERAL CONTRACTOR	ARCHITECT
1	PREDEVELOPMENT			
2	Phase I Environmental Report	X		
3	Phase II Environmental Report	X		
4	Material Management Plan (N/A)	X		
5	Environmental Abatement (N/A)	X		
6	Geotechnical Reports	X		
7	PLAN REVIEW / BUILDING PERMITS			
8	Submit for Permits		X	
9	General Building Plan Review & Permit Fees		X	
10	Fire Department Plan Review & Permit Fees		X	
11	Sign Plan Review & Permit Fees		X	
12	Fence/Screen Wall Plan Review & Permit Fees		X	
13	Fire Protection Plan Review & Permit Fees		X	
14	Fire Alarm Plan Review & Permit Fees		X	
15	Plumbing Plan Review & Permit Fees		X	
16	Mechanical Plan Review & Permit Fees		X	
17	Electrical Plan Review & Permit Fees		X	
18	State and Federal Stormwater Permit Fees		X	
19	FAA Permits for Cranes		X	
20	Street and Sidewalk Occupancy Permit Fees		X	
21	All other permits not described above but required by AIA 201 or governing AHJ(s)		X	
22	Dewatering Permits (if Applicable)		X	
23	Subcontractor Permits (any/all)		X	
24	Health Department Permit Fees (if Applicable)		X	
25	UTILITIES			
26	Subsurface Utility Exploration to include locates, pot-holing and exploratory excavation as needed		X	
27	Permanent Water Permit & Meter Fees	X		
28	Permanent Water Meter		X	
29	Permanent Sanitary Permit Fees	X		
30	Permanent Storm Water Permit Fee	X		
31	Electrical Service Agreements	X		
32	Electrical Service Coordination		X	
33	Gas Service Fee for New Meter	X		
34	Gas Service Coordination, Meter and Distribution		X	
35	Telephone/Fiber Service Agreements	X		
36	Telephone/Fiber Conduit from Pedestal to DMARK Room		X	
37	Telephone/Fiber Main Wire/Service from Pedestal to DMARK Room		X	
38	Telephone/Fiber Wire/Conduit distribution from DMARK Rooms throughout Building(s)		X	
39	Cable TV Service Agreement	X		
40	Cable TV Raceway from Pedestal to DMARK Closets		X	
41	Cable TV Main Wire/Service from Pedestal to DMARK Closets		X	
42	Cable TV Wire/Conduit distribution from Telephone Rooms throughout Bld.		X	
43	Satellite Service Agreement	X		
44	Satellite Raceway from Dish to Telephone Closets		X	
45	Satellite Main Wire/Service from Dish to Telephone Closets		X	
46	Satellite Wire/Conduit distribution from Telephone Rooms throughout Building		X	
47	Temporary Gas Hook-up and Monthly Usage Fees		X	
48	Temporary Electric Hook-up and Monthly Usage Fees		X	

ATTACHMENT F
 NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION

RESPONSIBILITY & BUDGET MATRIX

Issued Date: 11/24/2021

Submitted Date: 1/07/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

ITEM NO.	DESCRIPTION	OWNER	GENERAL CONTRACTOR	ARCHITECT
49	Temporary Phone Hook-up and Monthly Usage Fees		X	
50	Temporary Water & Sewer Hook-up and Monthly Usage Fees		X	
51	All Temporary Heating & Cooling During Construction (including propane bottles, temporary heaters, etc...)		X	
52				
53	TAXES AND DEVELOPMENT FEES			
54	Property Taxes	X		
55	Use Tax (as applicable)		X	
56	All Local, State and Federal Taxes for construction (as applicable)		X	
57				
58	INSURANCE, BUILDERS RISK, BONDS			
59	Owner Controlled Insurance Policy	N/A		
60	Contractor Controlled Insurance Policy		N/A	
61	Offsite Commercial General Liability Insurance		X	
62	Builders Risk		X	
63	General Contractor Payment & Performance Bond		X	
64	Subcontractor Payment & Performance Bonds		X	
65	TESTING AND INSPECTION / QUALITY CONTROL			
66	Coordinate and schedule all testing and inspections		X	
67	Soils Testing & Inspection (cost)	X		
68	Asphalt Testing & Inspection	X		
69	Concrete Testing & Inspection	X		
70	Masonry Testing & Inspection	X		
71	Reinforcing Steel Testing & Inspection	X		
72	Structural Steel Testing & Inspection	X		
73	Exterior Framing Weld/Fasteners Testing & Inspection	X		
74	Fire Resistive Paint Testing & Inspection	X		
75	Fire Rated Joint Testing & Inspection	X		
76	Fire Proofing Testing & Inspection	X		
77	3rd Party Independent Inspections	X		
78	Building Envelope (water intrusion) Testing & Inspection	X		
79	Re-testing & and Re-inspection Due to Failed Work		X	
80				
81	PRECONSTRUCTION			
82	Schematic Design RFP Pricing (Initial GMP)		X	
83	Design Development Pricing Budget Update		X	
84	50% Construction Document Budget Update		X	
85	100% Construction Document Pricing (Partial/Final GMP)		X	
86	Regular Coordination Meetings	X	X	
87	Construction Feasibility Review / Studies		X	
88	Value Engineering / Alternates		X	
89	Construction Schedule		X	
90	Long Lead Items List		X	
91	Bid Document Reproductions (beyond Arch Provided)		X	
92				
93	CONSTRUCTION			
94	All work per the documents and reasonably inferable for complete project		X	
95	All worker onsite & offsite parking, transportation, and housing in performance with the construction		X	
96	Temporary protection		X	
97	Printing or Reproduction During Construction		X	
98	City Required Sustainability Requirement Coordination		X	
99	Construction Surveying		X	
100	As-Builts		X	
101	Warranty		X	

**ATTACHMENT F
NORTHGLENN CIVIC CENTER MASTER PLAN - PHASE II IMPLEMENTATION**

RESPONSIBILITY & BUDGET MATRIX

Issued Date: 11/24/2021

Submitted Date: 1/07/2021

FIRM NAME: FCI CONSTRUCTORS, INC.

ITEM NO.	DESCRIPTION	OWNER	GENERAL CONTRACTOR	ARCHITECT
102	Special Extended Warranty (i.e. equipment, flooring, etc...)		X	
103	Operation and Maintenance Manuals		X	
104	Prepare Punchlist		X	X
105	Approve Punchlist	X		X
106				
107	FURNITURE, FIXTURES & EQUIPMENT			
108	Furniture (Architect Specify; Owner Supply)	X		
109	Site coordination with Owner Supplied Furnishings		X	
110	Coordinate Data Center Racks & Cabling		X	
111	Coordinate with Owner's Computer Equipment Installation by others		X	
112	Security - Conduit/Wire/Equipment		X	
113	Low Voltage- R/I, Conduits, Power, Sleeves, Backing, etc. Contractor to include all wire/cable pulling and terminations required for low-voltage systems.		X	
114	Coordinate with Owner's Audio Visual - Equipment		X	
115	Kitchen/Servery & Laundry Equipment (if Applicable)		X	
116	Pool/Jacuzzi/Applicable Systems		X	

NOTES:

1

The Responsibility and Budget Matrix is intended to aid in defining "Gray Areas" of scope between the Owner and General Contractor. This document is NOT inclusive of all of either parties responsibilities and needs to be used in conjunction with the other contract documents.

Please treat this proprietary information as confidential and privileged material which is intended for the sole viewing of the recipient. Any other distribution is strictly prohibited.