

EXHIBIT A

Subcontractor Safety, Insurance, and Indemnity Requirements

The terms of this Exhibit shall control over the provisions found elsewhere in the Agreement. For the purposes of this Exhibit, the term "Contractor" shall mean and be read throughout the body of this Agreement as **Shales McNutt, LLC**. The term "Subcontractor" shall mean and be read throughout the body of this Exhibit as **Subcontractor**.

Safety

The Subcontractor, its agents, employees, suppliers, and lower-tier subcontractors will perform all work on the project in a safe and responsible manner. In particular, Subcontractor shall, at its own expense, conform to the safety policies and regulations established by Shales McNutt Construction and shall comply with all specific safety requirements promulgated by any government authority including without limitation the requirements of the Occupational Safety and Health Act of 1970 and the Construction Safety Act of 1969 or agencies which administer the Acts. The Subcontractor shall comply with said requirements, standards and regulations and require and be directly responsible for compliance therewith on the part of its said agents, employees, material men and subcontractors; and shall directly receive, respond to, defend and be responsible for all citations, assessments, fines or penalties which may be incurred by reason of its failure on the part of its agents, employees, suppliers, and lower-tier subcontractors to so comply.

Insurance

1. All insurance required shall be effected under valid and enforceable policies issued by insurance companies authorized to do business in the state(s) in which the services are to be performed, rated no less than A- as shown in the most current issue of A.M. Best's Key Rating Guide, or which are acceptable to the Contractor.
2. Failure of the Subcontractor to provide insurance as herein required or failure of the Contractor to require evidence of insurance or to notify Subcontractor of any breach by Subcontractor of the requirements of this Agreement shall not be deemed to be a waiver by Contractor of any of the terms and conditions of this Agreement, nor shall they be deemed to be a waiver of the obligation of the Subcontractor to defend, indemnify, and hold harmless the Contractor as required herein.
3. In the event of any failure by Subcontractor to comply with the provisions of this Agreement, the Contractor may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to Subcontractor, purchase such insurance, at Subcontractor's expense, provided that the Contractor shall have no obligation to do so and if the Contractor shall do so, Subcontractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages. All such costs incurred by the Contractor shall be promptly reimbursed by Subcontractor and/or may be withheld from any payment due Subcontractor.
4. It is understood and agreed that authorization is hereby granted to Shales McNutt, LLC to withhold payments to the Subcontractor until a properly executed and accepted Certificate of Insurance providing insurance as required herein, accompanied by a signed subcontract or purchase order, are received by Shales McNutt, LLC.
5. Commencement of operations without the required Certificates of Insurance, or without compliance with any other provision of this Agreement shall not constitute a waiver by the Contractor of any rights in the Agreement.
6. None of the requirements contained herein as to types, limits or the Contractor's approval of insurance coverage to be maintained by Subcontractor are intended to and shall not in any manner limit, qualify or quantify the liabilities and obligations assumed by Subcontractor under this Agreement, or otherwise provided by law.
7. Subcontractor will obtain and shall continue to carry the following policies of insurance in connection with the Agreement and the Work required herein on an Occurrence basis for the duration of the Work and for two (2) years after completion of the Work, or the expiration of the Statute of Limitations pursuant to Illinois Law:
 - 7.1. **Commercial General Liability** insurance on an annual basis with limits not less than:
 - \$1,000,000 Bodily Injury and Property Damage Combined Single Limit for Each Occurrence
 - \$2,000,000 General Aggregate
 - \$2,000,000 Products/Completed Operations Aggregate
 - \$1,000,000 Personal and Advertising Injury

EXHIBIT A

And shall include the following:

- 7.1.1. Premises/Operations
- 7.1.2. Independent Contractors for Contractor's and the Subcontractor's liability arising out of the work and operations of Subcontractors or any Sub-subcontractors
- 7.1.3. Aggregate Limits of Insurance Per Project per ISO endorsement CG2503
- 7.1.4. Broad Form Contractual Liability specifically in support of, but not limited to, the indemnity provisions of the Agreement
- 7.1.5. Personal Injury Liability
- 7.1.6. XCU (explosion, collapse and underground coverage)
- 7.1.7. Products/Completed Operations (this coverage is to be maintained for two years after the Final Payment Agreement is executed, or the expiration of the Statute of Limitations pursuant to Illinois Law)
- 7.1.8. A Separation of Insureds or Severability of Interests provision with regard to the General Liability policies applicable to the Named Insured(s) and all Additional Insureds
- 7.1.9. General Liability Waiver of Subrogation in favor of the Additional Insureds

7.2 **Business Automobile Liability** Insurance with limits not less than \$1,000,000 per occurrence combined single limit for Bodily Injury (including wrongful death) and Property Damage liability. This policy shall be on a standard form written to cover all owned, leased, hired and non-owned automobiles.

7.3 **Workers' Compensation** insurance, including Occupational Disease coverage, to include compensation benefits in the statutory amount required by the state(s) in which the Work is accomplished and the state(s) in which the Contractor's employees reside. Provide a waiver of subrogation in favor of the entities listed in Section 16.4 of this Exhibit.

7.4 **Employer's Liability** coverage with limits not less than:

- 7.4.1 \$1,000,000 Each Accident
- 7.4.2 \$1,000,000 Each Employee for Disease
- 7.4.3 \$1,000,000 Policy Limit for Disease

7.5 **Umbrella Liability** coverage with limits no less than \$5,000,000 per occurrence and \$5,000,000 aggregate for the following trades: Demolition, Precast wall panels and floor planks, Structural Steel, Roofing, Plumbing, HVAC, Electrical, Masonry, Fire Protection & General Trades. All other trades not listed shall have minimum coverage limits of \$3,000,000 per occurrence and \$3,000,000 aggregate. Material suppliers will provide coverage with limits no less than \$2,000,000 per occurrence and \$2,000,000 aggregate.

7.6 **Professional Liability and/or Errors & Omissions Liability** coverage, as applicable for subcontractors performing design, engineering, surveying, and similar work, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate.

7.7 **Pollution Liability** coverage, as applicable for subcontractors performing excavation work, demolition work, remediation work, having fuels delivered, or similar work, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate.

8. Subcontractor shall maintain during the life of the Agreement Workers' Compensation coverage for all of Subcontractor's workers and anyone directly employed by Subcontractor and anyone for whom Subcontractor may be liable for Workers' Compensation claims that may arise out of or result from operations under the Agreement, and in case any Work is subcontracted, the Subcontractor shall require all of its Sub-subcontractors similarly to provide Workers' Compensation insurance for all the latter's employees and anyone employed by Sub-subcontractor and anyone for whom Sub-subcontractor may be liable for Workers' Compensation claims that may arise out of or result from operations under the Agreement unless such employees are covered by the protection afforded by the Subcontractor.

9. The Contractor and any other entities set forth below in Section 16.4, as well as any others who may be designated by the Contractor, shall be included as Additional Insureds under the Subcontractor's General Liability policy. Coverage for all Additional Insureds shall be provided on a primary and non-contributory basis.

10. The General Liability and Workers Compensation policies shall be endorsed that the insurance companies waive their right of recovery or subrogation against the Contractor and any other entities set forth below in Section 16.4.

EXHIBIT A

11. It is the Subcontractor's obligation to require their sub-subcontractors to meet the insurance requirements above.
12. Upon execution of the Agreement, Subcontractor shall immediately furnish to the Contractor (a) a certificate of insurance and (b) General Liability Additional Insured endorsements in accordance with Section 16. Renewal evidence of coverage shall be delivered to the Contractor no later than the expiration date of the previous policies.
13. Subcontractor shall notify the Contractor at least thirty (30) days in advance in the event of cancellation or non-renewal of their policies. In the event of cancellation due to nonpayment of premium, at least ten (10) days' notice is to be provided to the Contractor. All notification is to be made in writing to the Contractor.
14. Any insurance policy maintained by the Subcontractor that covers equipment of the Subcontractor against loss by physical damage shall include an endorsement waiving the insurer's right of subrogation against the Contractor and others designated as Additional Insureds. Should the Subcontractor choose to self-insure this risk, it is expressly agreed that the Subcontractor waives any claim for damage or loss to said equipment against Contractor or any other Additional Insured.
15. Evidence of the insurance coverage required to be maintained by the Subcontractor, represented by certificates of insurance issued by the insurance carrier or its legal agent, must be furnished to the Contractor no later than the execution of the Agreement. Such Certificates of Insurance shall specify:
 - 15.1. Contractor as Certificate Holder with correct mailing address
 - 15.2. Insured's name, which must match that on the Agreement
 - 15.3. Companies affording each coverage, policy number of each coverage; policy dates of each coverage, all coverages and limits described herein, and signature of authorized representative of insurance company
 - 15.4. Producer of the certificate with correct address and phone number listed
 - 15.5. Additional Insured status required by the Agreement, including the Additional Insured Endorsement(s)
 - 15.6. Waivers of Subrogation required by the Agreement
 - 15.7. Primary and non-contributory status required by the Agreement
16. Subcontractor's insurance company shall issue Additional Insured Endorsement on ISO form CG2010 1185 or on the combination of ISO forms CG2010 1001 and CG2037 1001. Substitute forms providing equivalent coverage may be accepted at the approval of the Contractor. The Certificate of Insurance shall also contain the following information:
 - 16.1. **Name and Address of Project: Roselle School District 12, Spring Hills Elementary School – Renovation and Site Improvements, Roselle, IL**
 - 16.2. **Name of Contractor: Shales McNutt, LLC dba SMC Construction Services**
 - 16.3. **Name and address of Certificate Holder: Roselle School District 12, 100 E. Walnut Street, Roselle, IL 60172**
 - 16.4. **Additional Insureds: Roselle School District 12, Wold Architects & Engineers & their consultants, & SMC Construction Services & their employees**

Indemnity

17. Indemnifications. To the fullest extent permitted by law, Subcontractor shall indemnify, defend and hold harmless the Contractor, Owner, Architect/Engineer, their parents, members, subsidiaries, related corporations and any other entity as provided in the Contract Documents (hereinafter "Indemnified Parties") and agents and employees of any of from and against claim, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, provided that such claims, damage, loss or expense is attributed to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting there from, but only to the extent caused or alleged to be caused by the negligent acts or omissions of the Subcontractor, or anyone directly or indirectly employed by the Subcontractor or anyone for whose acts the Subcontractor may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.
18. No limitation upon Liability. In any and all claims against the Indemnified Parties, by any employees of the Subcontractor, anyone directly or indirectly employed by the Subcontractor, anyone for whose acts the Subcontractor may be liable, the indemnification obligations under Paragraph 17 shall not be limited in any way by a limitation on the amount or type of damages, compensation or

EXHIBIT A

benefits payable by or for the Subcontractor under worker's compensation acts, disability benefit acts or other employees benefit acts.

19. Additional Indemnification. Subcontractor shall indemnify, defend and hold harmless the Indemnified Parties from and against any and all claims demands, suits, actions, expenses, judgments, losses and liabilities, including fines and penalties, costs and attorneys; consultants; and experts' fees as a result of Subcontractor's actual or alleged failure to perform the Subcontract in accordance with the terms of this Agreement and the Contract Documents. The foregoing obligations of Subcontractor shall include, but are not limited to, (i) damages and other delay costs payable by Contractor; (ii) Contractor's increased costs of performance, such as extended overhead and increased performance costs resulting from Subcontractor caused delays or omitted or defective Subcontractor's Work; (iii) warranty, rework and repair costs; (iv) liability to third parties, including, but not limited to, other subcontractors of Contractor and Owner's contractors; (v) excess re-procurement costs' (vi) costs to obtain a substitute subcontractor or costs incurred to demand and ensure performance of Subcontractor's surety in the event of Subcontractor default; (vii) Consultant's and experts fees; and (viii) attorney's fees and related costs. Subcontractor's actual or alleged failure to perform shall include the actual or alleged failure of Subcontractor's lower-tier subcontractors or suppliers to perform. The foregoing indemnity shall also be an obligation of Subcontractor's performance bond surety provided, however, the existence or non-existence of a performance or payment bond shall in no way limit or condition the Indemnified Parties' right of indemnity or remedies against Subcontractor nor shall it limit Subcontractor's responsibilities hereunder.
20. Indemnity For Equipment Utilized. To the fullest extent permitted by law, in the event that Subcontractor or any Subcontractor's agents, employees, suppliers, or lower-tier subcontractors utilize any machinery, equipment, tools, ladders, scaffolding, hoists, lifts or similar items belonging to or under the control of any of the Indemnified Parties. Subcontractor agrees to indemnify, defend and save harmless the Indemnified Parties from and against any and all claims, demands, suits, actions, expenses, judgments, losses and liabilities, including fines and penalties, costs and attorney's consultants' and experts' fees, arising out of such use, except to the extent such loss or damage shall be caused by the negligence of any of the Indemnified Parties' employees operating any of the Indemnified Party-owned or Indemnified Party-leased equipment.
21. Patents. Except as otherwise provided by the Contract Documents, the Subcontractor shall pay all royalties and license fees which may be due on the inclusion of any patented materials in the Subcontractor's Work. The Subcontractor shall defend all suits for claims for infringement of any patent rights arising out of the Subcontractor's Work, which may be brought against the Contractor, Owner, or Architect/Engineer and shall be liable to the Contractor, Owner, or Architect/Engineer for all loss, including all costs, expenses, and attorney's fees.
22. Work. Subcontractor hereby assumes the entire responsibility and liability for work, supervision, labor and materials provided hereunder, whether or not erected in place, and for all plant, scaffolding, tools, equipment, supplies and other things provided by Subcontractor until final acceptance of Subcontractor's Work by the Owner as defined by the Contract Documents. In the event of any loss, damage or destruction thereof from any cause, Subcontractor shall be liable therefore, and shall repair, rebuild and make good said loss, damage or destruction at Subcontractor's sole cost.
23. Duty to Defend. Subcontractor shall: (i) at Subcontractor's own cost, expense and risk, defend all claims defined in this Article that may be brought or instituted by third persons, including, but not limited to, government, state, or local agencies, or employees of the Subcontractor against any of the Indemnified Parties or their agents or employees or any of them (ii) pay and satisfy any judgment or decree that may be rendered against the indemnified parties or their agents or employees, or any of them arising out of any such claim; and (iii) reimburse the Indemnified Parties or their agents or employees for any and all legal expense incurred by any of them in connection herewith or in enforcing the indemnity granted in this Article; (iv) at the option of an Indemnified Parties it may engage counsel of its choice with respect to any action which the Indemnified Parties contends involves Subcontractor's indemnity obligation, and Subcontractor's insurer is obligated to accept such counsel and Subcontractor shall pay all the fees and expenses thereof as provided above.
24. Indemnification independent from Insurance. Subcontractor's indemnification obligations are independent from, and not limited in any manner by the Subcontractor's insurance coverage required herein.

Shales McNutt, LLC

DATE _____

Subcontractor
Shales McNutt LLC

DATE _____